

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 8<sup>th</sup> August 2018

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

### PETITIONS

#### PROPOSALS TO AMEND THE CONSTITUTION

**Hon. Speaker:** Hon. Members, Standing Order 225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office has received a Petition from a Dr. Gibson Maachanga Mareko, regarding proposals to amend the Constitution.

The petitioner is asking the National Assembly to amend Articles 81, 138, 144, 145 and 148 of the Constitution to provide that:

- (i) No person shall hold the same elective office for more than two terms;
- (ii) A person shall be elected President of the Republic if they receive more than 70 per cent of all valid votes cast in an election;
- (iii) If the threshold is not reached, the two leading candidates should be declared first and second Presidents, having garnered at least 30 per cent of the valid votes cast, and each serve one term.

The petitioner, therefore, prays that the National Assembly amends the Constitution as proposed to increase the threshold for the presidency so as to eliminate negative ethnicity, ensure Government inclusivity, promote nationalism and political tolerance and foster political maturity.

Pursuant to the provisions of Standing Order 227, this petition stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is requested to consider the petition and report its findings to the House and to the petitioner within 60 days in accordance with Standing Order 227(2).

I thank you.

Leader of the Minority Party, do you want to comment on this?

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, ridiculous as the Petition may appear or sound, of late we have been receiving quite a number of petitions with similar and interesting suggestions to amend the Constitution. It speaks to one thing: There is something that Kenyans yearn for, and probably they do not know how to go about it. It is my hope that the team that was constituted by the President and my party leader would come up with some suggestions on how to get this country to heal and be together.

Reading through that petition and tying it to the one the Member for Kisumu Central came up with and a similar one previously suggesting limitation of age of the president and many

others, it is an indication that Kenyans have some fatigue with this Constitution. That way, probably, we need to start thinking seriously how to engage Kenyans more constructively in a bid to make the Constitution friendly to them. This Constitution was passed so that Kenyans could have some fresh air, but it appears it is choking a number of Kenyans. Therefore, I would urge that the committee should not just dismiss this petition, but look for ways of how to recommend some serious engagement in terms of discussing the Constitution. Probably, the 20 per cent that some of us talked about before this Constitution was passed is coming to hit us. We need to look at this 20 per cent and make this Constitution workable.

Thank you, Hon. Speaker.

**Hon. Speaker:** You are right. We are into the era of requests for amendment of the Constitution. Article 81 requires that the electoral system, among other things, shall ensure that not more than two-thirds of either gender is represented. That is one of the amendments proposed. But it does not appear to be addressing that.

I agree with you; there may be need. In the Sixth Schedule to the Constitution, the Constitution Implementation Oversight Committee (CIOC) is still in place. I thought at some point Hon. Jeremiah Kioni had appeared quite active and desirous of examining most of those issues, some of which could be instances in the implementation or realisation of some of the provisions in the Constitution. I therefore quite agree with you, Hon. John Mbadi.

Your deputy also wants to swim into it. Hon. Mbui.

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Speaker. As you read out that petition, I could not fail to notice that a lot of Members were looking at it as if it is a comedy of sorts; a lot of Members were actually laughing. I just thought to myself: This House has so much work; we have such a busy and tight schedule that we need to figure out the threshold that we have to set for petitions to come to the House. It is important that we try and look for ways by which we can block some of these petitions, because you know it is already doomed to fail from the onset. I do not know how you can guide us to do this, but it is important that we do not allow every single individual who comes up with any sort of idea to bring it to the House.

**Hon. Speaker:** The wording of Article 119 obviously obligates the House to deal with it. It says any Kenyan may petition Parliament to look into any matter that is within its power and authority. It is within the power of the House to propose amendments to the Constitution. Maybe even the wording in Article 119 should be relooked.

The next petition is by Hon. Alfred Keter.

#### DELAYED PAYMENT OF MAIZE DELIVERED TO NATIONAL CEREALS AND PRODUCE BOARD

**Hon. Alfred Keter** (Nandi Hills, JP): Hon. Speaker, I wish to present a public petition on behalf of maize farmers regarding delayed payments to farmers by the National Cereals and Produce Board (NCPB).

I, the undersigned, on behalf of the farmers of the Rift Valley counties, draw the attention of the House to the following:

THAT, aware that Kenya depends on agriculture for economic growth and development over the decades and that agriculture is the largest contributor to Kenya's Gross Domestic Product (GDP);

THAT, Rift Valley Region has been the backbone of maize growing in the country and that maize is Kenya's staple food consumed by 90 per cent of the population;

THAT, since January 2018 maize producers in the Rift Valley Region delivered maize to the NCPB and to-date they have not been paid their dues totaling Kshs3.5 billion;

THAT, during the 2017/2018 season the NCPB committed over Kshs11 billion in Strategic Food Reserves (SFR) for maize purchases, out of which Kshs7 billion was disbursed to NCPB from Strategic Food Reserve accounts for payment to farmers leaving an outstanding balance of about Kshs3.5 billion;

THAT, the aforementioned money was never paid to the farmers and instead was irregularly disbursed to certain individuals and traders who are not the intended beneficiaries;

THAT, farmers decry the fact that the delayed payments have made it difficult for them to meet their financial obligations, for instance purchase of farm inputs like fertilisers, maize seeds among other essentials;

THAT, the increased cost of farm inputs like fertilisers have forced farmers to reduce acreage under the crop hence posing a threat to the country's food security;

THAT, in the recent past, farmers have become victims of cartels and exploitation by middlemen, for instance, the Government-purchased subsidised fertilisers to be sold to farmers through the NCPB and the same never got to the farmers but instead was irregularly sold to unscrupulous middlemen;

THAT, efforts to have these matters addressed by the relevant authorities have been futile; and,

THAT, none of the issues raised in this petition is pending in any court of law, constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Agriculture and Livestock: -

- (i) causes NCPB to speedily pay farmers their dues;
- (ii) causes NCPB to put in place mechanisms of registering all farmers for ease of payments and supply of farm inputs; and,
- (iii) makes any other direction it deems fit in the circumstance of this matter.

And your petitioners will ever pray.

**Hon Speaker:** Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker I support this petition by Hon. Alfred Keter of Nandi Hills.

Hon. Speaker, farmers in the North Rift, and particularly in my county of Trans Nzoia, started delivering maize to the NCPB from November last year to January. Those farmers depend on that money for payments. The Ethics and Anti-Corruption Commission (EACC) wrote a letter to the NCPB to stop any further payment as the matter was being investigated. We do not know when the investigations will be complete.

The farmers depend on the money they get from the sale of their produce to NCPB for payment of school fees for their children, ploughing their land and meeting their basic needs. We expected, if there were issues of corruption within the NCPB, the EACC to have come up with a list of suspects in respect of whom payments should be stopped until they cleared with them. We did not expect them to take a decision that would affect all the farmers. You cannot suspect all

the farmers. A small-scale farmer who has delivered his 50 bags to NCPB cannot be a suspect in an investigation.

Hon. Speaker, we urge the House, and more so the Departmental Committee on Agriculture and Livestock, to take this matter very seriously, on behalf of the farmers of the North Rift region.

Thank you.

**Hon. Speaker:** Member for Ugunja. You had put in your request.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, because you have called me out, let me make a comment.

I totally agree with the petition as presented by Hon. Alfred Keter. You recall that my Committee did engage in this matter, albeit briefly, two months ago. Currently, it sits squarely and rightfully under the Departmental Committee on Agriculture and Livestock.

Hon. Speaker, it is not conceivable that the Government, which has clearly, through the NCPB, received maize from small-scale farmers in broad daylight, can fail to pay for it on whatever grounds. It is incumbent upon any responsible Government to look for whatever money it can find to pay the farmers as a matter of urgency. How we treat our farmers, and more so small-scale maize farmers, is a testimony to how we regard ourselves as citizens. Very soon, these maize farmers will suffer the fate of the sugarcane farmers of western Kenya. It is high time this House put its feet down to ensure that the right thing is done and done on time.

Thank you, Hon. Speaker.

**Hon. Speaker:** I thought you said that even if there is no money, the Government should look for any money. I was wondering how the two go together.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, you know, in this country, there is some money which is held by some strange fellows here.

**Hon. Speaker:** Very well, let us have Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. I have interacted with a few farmers, and the suffering they are going through is immense. In this country, people do not know that farmers depend on payments for their produce just like we depend on our salaries.

The Departmental Committee on Agriculture and Livestock should order a stop of payment of salaries to NCPB staff so that they can feel the pinch that farmers are feeling. Since it is EACC who ordered that payment for the maize delivered to the NCPB should stop, their staff should also stop receiving their salaries for only two months so that they know what the farmers are going through. They use payments for their maize to pay their hospital bills and school fees. Now everything has come to a standstill.

Hon. Speaker, I support the petition by Hon Alfred Keter. The NCPB should also pay the transporters because they have not been paid.

Thank you, Hon. Speaker.

**Hon. Speaker:** Before we hear more comments, may I recognise the presence in both the Speaker's Gallery and the Public Gallery, pupils from Imperial Primary School from Kitutu Chache South Constituency, Kisii County; Set Green Hill Academy from Kitutu Chache South Constituency, Kisii County; St. Joseph Holy Angel Primary School from Galole Constituency, Tana River County; St. Marys Primary School from Garissa Township Constituency, Garissa County; Luuma Primary School from Tigania East Constituency, Meru County; Kenyoro ELCK Primary School from North Mugirango Constituency, Nyamira County; KMG Primary School

from Kajiado West Constituency, Kajiado County; and Emsea Primary School from Keiyo South Constituency, Elgeyo Marakwet County.

They are all welcome to observe the proceedings of the National Assembly this afternoon.

Member for Matungu, Hon. Makokha Murunga.

**Hon. Justus Makokha** (Matungu, ANC): Asante sana, Mhe. Spika. Naunga mkono Ombi hili kuhusu mateso ambayo wakulima wetu wanapitia. Ni kweli mkulima wetu anapitia mateso mengi kwa sababu unapolima shamba lako, unatarajia kupata mavuno kama vile sisi tunavyokuja Bunge tunatarajia tupate mshahara wetu. Wakulima wa Kenya wanaendelea kupata mateso awe ni mkulima wa miwa au wa mahindi kwa sababu hapati mavuno ambayo anatarajia. Hili ni jambo ambalo tunafaa kulichukulia maanani kwa sababu mkulima akilima shamba lake anategemea mazao hayo kufanya kazi, kwa mfano, kulipia watoto wake karo ya shule na kulima shamba tena arudishe mazao ndani. Si vyema Serikali tukufu iwache wakulima kama hao wateseke. Kwa mfano, tulikuwa sehemu ya Eldoret mwezi wa tatu mwaka huu na kusema kweli tulipata wakulima wakiwa na malalamiko ya kutolipwa na huo ndio wakati walikuwa wanajitayarisha kulima tena mashamba yao.

Ingawaje Serikali ilitoa pesa kwa kiwango kikubwa na ikaongeza bei ya mahindi, unapata kwamba anayenufaika kwa kupata mapato kutoka kwa malipo haya si mkulima wa kawaida. Unakuta kwamba ni watu wengine waliagiza mahindi kutoka nje ya nchi hii ndio waliopeleka mazao hayo kwa stoo hizi na wakanufaika badala ya mkulima wa kawaida. Hili si jambo zuri na ninawaomba Wabunge wenzangu wachukulie jambo hili kwa hali ambayo inatakikana ili mkulima asiendelee kupitia mateso anayoyapitia. Kwa mfano, wakati huu tunapongea, sio mkulima wa mahindi tu anayeteseka peke yake lakini hata mkulima wa miwa pia anateseka. Unakuta kuwa hata viwanda vyetu vinaanguka kwa sababu ya hali hii na si vyema.

**Hon. Speaker:** There is a rule of relevance. This is nothing about sugar.

**Hon. Justus Makokha** (Matungu, ANC): Lakini, Mhe. Spika, wote ni wakulima.

**Hon. Speaker:** Now that you want to be relevant, you are discontinued.

*(Laughter)*

Next is the Member for Soy.

**Hon. Caleb Kositany** (Soy, JP): Thank you, Hon. Speaker. I rise to support this petition by Hon. Alfred Keter who is also a farmer. The Leader of the Majority Party is asking which farm. We will take him on a tour of Uasin Gishu and Nandi counties and he will see. The issue at hand is a very key issue that touches on the very people that we sit in this House courtesy of their votes. The reason why our farmers have not been paid is not because the National Treasury does not have money or it has refused to release the money. The money has been released but the EACC wrote a letter to the Cabinet Secretary in charge of agriculture directing him not to pay any farmer until they complete their investigations. We have since also learnt that the functions of the NCPB, which handles the strategic grain reserve, have been moved through an Executive Order to the Ministry of Devolution. We want direction whether through that letter now Hon. Eugene Wamalwa can release the funds.

Most of the farmers' children are in school and are suffering because every single day the principals are asking for the school fees and those farmers need to be paid urgently. One key issue is that many farmers took loans from the Agricultural Finance Corporation (AFC) to finance the production of maize for the last season. Up to now we have farmers who are getting

demand letters from AFC, which is also another government entity. We have a government entity here which owes farmers money and we have a government entity on this side which is owed money by farmers and it is demanding money. Going forward, we need a law that will safeguard farmers from being charged interest by AFC when they have already delivered maize to the NCPB.

Also, we would like direction as to which committee will handle this now that the functions of the strategic grain reserve or NCPB have been moved from the Ministry of Agriculture to the Ministry of Devolution. Thank you, Hon. Speaker.

**Hon. Speaker:** The petition is referred to the Departmental Committee on Agriculture and Livestock to handle and invite all those concerned to shed light on the plight of farmers.

Next Order!

### PAPERS LAID

**Hon. Speaker:** Is Hon. Makali Mulu present? Obviously, today you are in a very unusual position. I was looking for you at your usual place. Proceed. If you are ready with the Report you can table it.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. I was consulting my friend and neighbour here. Unfortunately, I have not been given the Report yet. So, I think I will table it tomorrow or next week.

**Hon. Speaker:** The Report has not been handed over to you. Did you say that you have not received the Report?

**Hon. Makali Mulu** (Kitui Central, WDM-K): I am saying you might have approved the Report but I do not have it here. So, I am not able to table it because I do not have the hard copy. The Clerk has not forwarded it to me.

**Hon. Speaker:** The Clerk has not sent the Report or...

**Hon. Makali Mulu** (Kitui Central, WDM-K): I am saying I do not have the Report which I am supposed to table now. I will possibly table it tomorrow if you allow me.

**Hon. Speaker:** You can table it tomorrow.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

### CONSIDERATION OF REPORT AND THIRD READING

#### LAND VALUE INDEX LAWS (AMENDMENT) BILL

*(Hon. Member walked into the Chamber)*

**Hon. Speaker:** Order, Hon. Member! What are you doing now? Hon. Members, debate on this Bill was concluded yesterday and what remained is for the Question to be put, which I hereby do.

*(Question put and agreed to)*

Let us have the Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the Land Value Index Laws (Amendment) Bill (National Assembly Bill No. 3 of 2018) be now read a Third Time. I also request Hon. Nyamai, the Chair of the Departmental Committee on Lands, to second.

**Hon. Rachel Nyamai** (Kitui South, JP): Hon. Speaker, I second.

*(Question proposed)*

**Hon. Members:** Put the Question

**Hon. Speaker:** Having confirmed that the House quorates, I will put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

Let us move to the next Order.

## BILL

### *Second Reading*

#### THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

*(Hon. Aden Duale on 7.8.2018)*

*(Debate concluded on 7.8.2018)*

**Hon. Speaker:** What is your point of order, Hon. Wandayi?

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I rise under Standing Order No.53(3). This particular amendment Bill proposes to amend more than 60 laws. Up to the point when the debate was concluded, not more than 20 Members had spoken to it. I seek your indulgence that under this particular Standing Order, you allow the House to continue debate on this Bill at a time that you will suggest because the Standing Orders are very clear that it can only be on the following day. This is so critical in the sense that members of the public presented their views on this amendment Bill but a number of chairpersons of various Departmental Committees have not gotten a chance to speak to this matter and express themselves on the views of the public that were harnessed during the time of the public participation.

I am saying this and I can see most Members are trying to belittle it. It is a very critical matter. In the past in this House, we have seen how matters of immense interest and serious implications have been passed in the form of miscellaneous amendment bills. I just want to plead with you that you give the House a second chance because we are not going anywhere. We are not rushing to any other place. This House has the time to debate this very important Bill appropriately and conclusively. I wish to seek your indulgence.

**Hon. Speaker:** Hon. Wandayi, is your point of order with regard to the Land Value Index Laws (Amendment) Bill or the Statute Law (Miscellaneous Amendments) Bill? You rose on Standing Order No.53 (3). Standing Order No.53(2) says that at the conclusion of debate the

speaker shall put the Question. Standing Order No.53(3) says that despite paragraph (2), the Speaker may on the request of a Member, defer the putting of the Question to the following day in which case the Speaker shall thereupon nominate a time at which the Question shall be put. Even if we defer, it is not the debate that we are deferring. Your intention will not be achieved. We can even say that I will put the Question next week or tomorrow but it will just be the Question and not debate.

*(Loud consultations)*

When the Mover of a Bill has already been called upon to reply and has done so, Standing Order No.53 only allows for the deferment of putting of the Question not for debate. The Mover has already replied. I am not persuaded to use Standing Order No.1, Hon. Wandayi, because your clear intention will not be achieved or aided by deferring of the putting of the Question. The Mover has already replied. Nothing stopped Members from being present in their droves last evening. I am aware that the Leader of the Minority Party indicated to the House Business Committee last evening that he had been preparing to robustly contribute to the Bill but from the comfort of his office, he realised that there was nobody and the Mover had been called upon to reply. This is just to inform Members that you should be present in the Chamber. I have seen the way many of you move about.

When Cabinet Secretaries used to be in the House, some of the reasons why Members were not in the Chamber could be that they had gone to consult the CSs. Hon. Millie Odhiambo says that sometimes we become automated teller machines (ATMs). You could even be queuing up at Kenyatta National Hospital to negotiate for constituents who may have bills. I am aware that Members do that. It is for that reason that I keep telling the country that you cannot expect to keep 349 Members in the House.

There is a requirement that for the Question to be put in this particular kind of Motion there must be not less than 50 of you. I am aware. Some of you could be loading your phones so as to do those things. You may not be able to load it from the Chamber. I am aware. Houses could be getting demolished and the Member responsible could go to get some *bonga* points. That is also representation. Accidents occur and happen anywhere; cattle rustling could be ongoing and Members have to be there, notwithstanding that they may not be trained as Anti-Stock Theft Unit policemen or policewomen. The Member for Juja says that there could be land grabbing and the Member needs to go and perform some jigs and pretend to be preventing land grabbing from happening. That is still an aspect of representation. Kenyans must tell Hon. John Mbadi what it is they consider to be representation. Is it only when Members sit in the Chamber? In that case, we should establish a rule that no Member will come here with their mobile phones. I see many of you bending down and I know what you are going through.

*(Laughter)*

I know. You are trying not to be seen as rude and not responding to urgent calls, some of which could be very mundane issues. Nevertheless, you have to be that representative of the people who, notwithstanding that your own representatives can see that you are actually in the Chamber, will still want to call you, Hon. Mulyungi, to see whether you will bend down. You can see the size of Hon. Mulyungi. When he bends, I know what he is doing. He is still representing his people. They may be telling him that he must come out because land grabbing or



cattle rustling is taking place. They may be telling him to come to a police station because somebody has been nabbed because they had *chang'aa* and you are supposed to go and help with that.

Hon. Members, I understand what Hon. Wandayi is trying to achieve. Unfortunately, it cannot be aided by Standing Order No.53. Our own rules say that once the Mover of a Bill or Motion has been called upon to reply, that marks the end of the debate; unless you persuade me, which you have not. I am unlikely to be persuaded. Hon. Wandayi, since there is still another opportunity to contribute during the Committee of the whole House, and given the reasons which you have raised, I suggest that many of you be present, so that when the Mover moves the clauses, you get a chance to express yourselves in one way or another relating to the proposed changes to the laws. Even though you still have to do other chores out there, the rule is that you must be here to contribute at the appointed time. Unfortunately, Hon. Wandayi, I do not have an option but to put the Question.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

### SPECIAL MOTIONS

#### APPROVAL OF NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY FOR STATE DEPARTMENT OF YOUTH

**Hon. Speaker:** Chairperson, Departmental Committee on Labour and Social Welfare, Hon. Ali Wario.

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Speaker for giving me the opportunity. As the House is aware, the Departmental Committee on Labour and Social Welfare is established under Standing Order No.216 with the mandate to, among others, consider for approval by the House, appointment of Principal Secretaries (PSs) pursuant to Article 155(3) of the Constitution. The said Article requires His Excellency the President to nominate and, with the approval of the National Assembly, appoint PSs.

This is an important function of Parliament which is enshrined in our Constitution.

**Hon. Speaker:** Hon. Wario, before you begin to explain the Motion, move it.

**Hon. Ali Wario** (Bura, JP): Hon. Speaker, I beg to move the following Special Motion:

THAT, taking into consideration the recommendations of the Departmental Committee on Labour and Social Welfare in their Report on the Vetting of the Nominee for Approval as the Principal Secretary for State Department of Youth, laid on the Table of the House on Tuesday, 7<sup>th</sup> August 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, this House approves the appointment of Dr. Francis Otieno Owino as the Principal Secretary for State Department of Youth.

Vetting nominees is one avenue through which the Legislature can hold the Executive to account, on behalf of the people of Kenya. His Excellency the President, through a letter dated 23<sup>rd</sup> July 2018, pursuant to the provisions of Article 132(2)(d) as read together with Article 155(3) of the Constitution and Sections 3 and 5 of the Public Appointments (Parliamentary

Approval) Act No.33 of 2011, notified the National Assembly of the nomination of Dr. Francis Otieno Owino for the appointment to the position of PS for the State Department of Youth. Pursuant to Standing Order No. 42(1), you conveyed a message of notification of nomination of Dr. Francis Otieno Owino on Tuesday, 24<sup>th</sup> July 2018. Consequently, pursuant to Standing Order No. 45(1), you informed the House that the nomination stood committed to the Departmental Committee on Labour and Social Welfare for vetting and report to the House within 14 days. My Committee took up this noble duty with utmost zeal and diligence.

On behalf of my Committee, I am glad to move the Motion today to support his appointment by the House. I wish to confirm to this House that all the procedures which are stipulated in various provisions relating to public appointments were followed. The Clerk of the National Assembly placed an advertisement in the print media inviting the public to submit memoranda by way of written statement on oath on the suitability or otherwise of the nominee on 25<sup>th</sup> July 2018, in conformity with Section 69 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011. The submissions were to be received by Wednesday, 1<sup>st</sup> August 2018. By the close of business on the said date, no submission had been received. Pursuant to the provisions of Article 118 of the Constitution, Section 64 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011 and Standing Order No. 45(3), the general public was also notified in print media by the Clerk of the National Assembly of the intention of the Departmental Committee on Labour and Social Welfare to conduct the vetting of the nominee on Thursday, 2<sup>nd</sup> August 2018.

On 26<sup>th</sup> July 2018, the Clerk of the National Assembly wrote to the EACC, the Kenya Revenue Authority (KRA), the Director of Criminal Investigations (DCI), Registrar of Political Parties and Higher Education Loans Board (HELB) and requested for reports with respect to the nominee on the matters touching on integrity, tax compliance and HELB loan repayment. The nominee was given a clean bill of health by all these institutions.

The Committee was guided by Section 7 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011 which sets out issues of consideration during vetting as the procedure used to arrive at the nominee, any constitutional and statutory requirement relating to the office in question, the suitability of the nominee for appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the need of the body to which the nomination is being made. The Committee also took cognizance of the provision of Section 47 of the Public Service Commission No.10 of 2017 which applies to the recommendation of nomination by the President for appointment as Principal Secretaries under Article 153(3) of the Constitution.

The Committee also considered the nominee's academic and professional qualifications in addition to his work experience. In this regard, the nominee is indeed fully qualified in that he holds a PhD in Peace and Conflict Studies from Masinde Murilo University of Science and Technology, Masters of Business Administration, Strategic Management, from Kenya Methodist University and a Bachelor of Arts degree, Second Class Honours, upper division and a certificate in guidance and counselling from the University of Nairobi. He also attended various capacity building courses both locally and abroad.

In work experience, the nominee is a career civil servant with a career span of close to three decades rising from a District Officer Cadet to the current post of Director of National Cohesion. He rose on merit through the ranks of the administrative cadre to the level of Deputy Secretary. In his tenure, in the then Provincial Administration, the nominee served in various

parts of the country from Kajiado, Bungoma, Kericho and even Turkana earning himself great exposure and experience.

The Committee, having considered the nominee's curriculum vitae and his oral submission during the vetting exercise, made the following observations among others: Being a holder of a doctorate degree in Peace and Conflict Studies, Masters in Strategic Management, Bachelor's degree in Arts, the nominee possessed requisite qualification for the position of Principal Secretary, State Department of Youth Affairs.

Having served in public service for over 28 years in various capacities from District Officer III Cadet in 1990 to the current position of Director of National Cohesion and Values, the nominee possesses the requisite work experience and exposure required for the appointment to the position of Principal Secretary.

The nominee is fully compliant with the provision of Chapter Six of the Constitution touching on integrity. He has been cleared by the Kenya Revenue Authority, Higher Loans Education Board, Ethics and Anti-Corruption Commission, the Registrar of Political Parties, Credit Reference Bureau and the Directorate of Criminal Investigation.

The nominee is a prolific writer with a passion for topical issues in public sector as exhibited by his writing as an author or co-author and contributor to various publications.

Overall, the Committee noted that the nominee exhibited impressive knowledge of topical, administrative and technical issues touching on the State Department of Youth Affairs and has the requisite abilities, qualifications and experience. Therefore, the Committee found the nominee suitable for the appointment as Principal Secretary in the State Department of Youth Affairs in the Ministry of Public Service, Youth and Gender.

Pursuant to Article 155(3) of the Constitution and Standing Order No.216(5)(f), the Committee recommends that this House approves the nomination of Dr. Francis Otieno Owino for appointment by His Excellency the President as Principal Secretary in the State Department of Youth Affairs in the Ministry of Public Service, Youth and Gender.

I beg to move and ask my able Vice Chair to second the Motion. Thank you, Hon Speaker for the opportunity.

**Hon. Speaker:** Hon. Joyce Korir.

**Hon. (Ms.) Joyce Korir** (Bomet CWR, JP): Thank you very much, Hon. Speaker. Indeed, I thank the Departmental Committee on Labour and Social Welfare headed by our Chair and the Clerks-at-the-Table for taking us through the vetting of one, Dr Francis Otieno for the position of Principal Secretary. As it has been said by the Chair and seen by the Committee Members, the said PS qualifies to be given the position. This is because he is one of the people who have served in the public service for 28 years and has risen through the ranks. The department he is nominated for appointment is a very sensitive one. He will be dealing with issues pertaining to the youth of this country. He will be dealing with issues concerning national youth policies, youth employment policy, youth mainstreaming in national development, coordinating youth issues in national development, spearheading protection of youths and un-harmful cultural practices and exploitation. The nominee is up to the task.

I urge the House to approve the nominee to this position. Therefore, I beg to second. Thank you.

*(Question proposed)*

**Hon. Speaker:** Hon. Nyamita.

**Hon. Mark Nyamita** (Uriri, ODM): Thank you, Hon. Speaker. I beg to contribute to this Motion on the approval of this nominee, Dr. Francis Owino. First of all, I thank the Committee for a good job they have done in vetting this gentleman who is clearly, from his papers, very well educated, and has working experience of over 28 year, close to three decades in Government.

The amazing thing is that this gentleman has served in Government for 28 years with no record of corruption especially in this era when we are fighting corruption. He has no problem with the public as evidenced in this Report because there was not even a single compliant from the public during the window when he was actually being vetted.

Hon. Speaker, this is a career civil servant who joined the service in 1992 and served from the lowest level to the highest level. Clearly, this is a gentleman who has risen through the ranks based on merit and not any other consideration. I also want to declare my interest. This gentleman comes from my constituency. I know him. He is a very diligent constituent. He has zero record of bad behaviour in the constituency. He is a very generous man. He is taking care of very many people in the constituency. I also want to say that this gentleman has zero interest in politics now and into the future. Looking at his CV – the papers he has written and his history - this is truly a suitable candidate for this role.

I thank the President for having thought it wise to reward people from within the system, people who have served this country with diligence over the years. I am sure Dr. Francis Owino is going to add value. I also thank His Excellency Raila Odinga for creating an enabling environment that certain parts of this country are also beginning to feel part of Kenya.

Without further ado, I fully support. Once this Member who has been nominated gets to office, this House might consider giving budget finally to NYS because we are now going to have a PS in charge of youth, a man of integrity.

I beg to support.

**Hon. Speaker:** Hon. Rasso.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Speaker. Not on this one, please.

**Hon. Speaker:** Member for Kiharu.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, Hon. Speaker. I stand first of all as a young person because we are talking about the department of youth. First, I commend the Committee for vetting this gentleman, Dr. Otieno. Even as I support, it is imperative that we know that the youth of this country constitute over 80 per cent of the entire population. There is a high dependence ratio when it comes to young people depending on the elderly especially the average age because most of them are unemployed. Even as the PS comes to...

**Hon. David ole Sankok** (Nominated, JP): On a point of order, Hon. Speaker.

**Hon. Ndindi Nyoro** (Kiharu, JP): Sankok, you are not a youth. What point of order do you want to make?

**Hon. Speaker:** What is your point of order, Hon. Sankok?

**Hon. David ole Sankok** (Nominated, JP): Hon. Speaker, is it in order for honourable Member for Kiharu to mislead this House that 80 per cent of our population is youth? The age bracket of the youth is between 18 and 35 years. They can never constitute 80 per cent of our population. This is an experienced gentleman and the Departmental Committee on Labour and Social Welfare which I am a Member did a thorough job.

**Hon. Speaker:** That is a point of argument. You are at liberty to stand and give those percentages to contradict his. Proceed.

**Hon. Ndindi Nyoro** (Kiharu, JP): It depends on his reference. As the PS comes to office, one of the policy issues he will handle with his years in that position is the Government policy

where they want to merge Uwezo Fund, the Youth Enterprise Development Fund and the Women Enterprise Development Fund into one entity of a bank. I know this is a very contentious issue. While listening to the young people of this country, it will be very unwise for the Youth Enterprise Development Fund or even Uwezo Fund to be merged with any other fund in the name of a bank. We have many institutions even a bank like Development Bank of Kenya, which has a majority shareholding from the Government of Kenya, but it is very inefficient when it comes to supporting the youth of this country.

Even as we approve this gentleman, it is very important, even myself as a youthful MP, to point out that currently in the constitution of the Government, there is no Cabinet Secretary who qualifies to be a young person by the definition of the UN. There is no single PS who falls in the bracket of a young person. Looking historically, we have had the former President of this country, Mwai Kibaki, who served as a very senior Government official as a Finance Minister at the age of 38. I urge all of us as Members of Parliament that it is very important to tap into the talent of the young people of this country. When it comes to our committees like the National Government Constituencies Development Fund (NG-CDF), it is very important that we tap into the energy and the imaginative ideas of young people.

History proves us right. When you look at some of the countries that have done very well, starting with Singapore, Lee Kuan Yew became the Prime Minister of Singapore at a tender age of 36- basically, an MP at a young age. Going to a place like France, people like Napoleon Bonaparte became a general in the army at the age of 25. The same fellow was an emperor at 35 years and ultimately became a king at 36. What I am trying to say is that if the majority of the people, especially in the constituencies where youthful people have been elected saw it fit that they can become representatives of the people, I ask the Executive to tap into the talent and the energy of the young people. Next time you are vetting a person in the Department of Youth, the issue should never be about experience or qualifications but the fact that you are a youth so that as you serve the very dynamic youth bracket, you are part of them and you are able not just to lead, but to experience your work and mandate.

It is a paradox that I am rising here to support this gentleman yet I know there are so many young people who can serve in the same department. But because I have read his qualifications, I believe his input will go a long way into pulling the youth of this country from the abyss we are in and bring us up to a level where we can be noticed even by the Executive to be given positions to serve within our own mandate.

With those few remarks, I support and I hope we take consideration to the remarks that the youth and the young people of this country can serve in their own departments and beyond because they have done so in the past. They can do so now and they can do so in the future.

Thank you.

**Hon. Speaker:** Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I support this Motion to approve Francis Otieno Owino as the nominee for the PS, State Department for Youth. I have few comments to make.

First, I congratulate this gentleman for making it this far. I know he has passed through a very long process of recruitment and finding favour with the President for appointment. He has been vetted by the Committee and now he is before us to be approved by the House.

Second, I do not think you have to be a youth to be a PS in the State Department of Youth. What is needed is someone who has the required experience, knowledge, enthusiasm and

the will to serve the youth of this country. I believe that Dr. Francis Otieno will be able to articulate and help the youth of this country progress.

The reason this department was created and made a full Ministry at one point was on realisation that the challenges that the youth faced in this country were so important and complex that they required special attention. However, we have previously been disappointed by those who are appointed to this department to help the youth realise their potential in terms of either creating employment opportunities for them or helping them start businesses to develop themselves. People who are given the assignment or those who are appointed to this department have been benefitting, or profiting irregularly and fraudulently, from funds that are allocated to help support youth activities.

Hon. Speaker, I just want Dr. Francis Otieno Owino to know that he is coming to this department when even the Parliament of the Republic of Kenya, the National Assembly, has decided to reduce funding to this department purely because of embezzlement of funds. He will do honour to this country, himself, his family and people who know him by bringing a total change in this department. That is so that, for the first time, we see a department that is responsive to the needs of the youth in this country. That is going to help the youth realise their full potential. Our greatest danger in this country in terms of social stability is youth unemployment. Those of us who are in politics, those of us who have been looking for votes, I will tell you that the greatest challenge we had during campaigns, which we continue to have, is the youth who believe that you can help them get employment yet you are also as helpless as they are. So, it is high time we found a total paradigm shift in this department. I hope that Dr. Francis Otieno Owino, if he is watching, this House is approving his appointment to this department. I want to plead with him not to disappoint us again. We have faced enough disappointment. I am sure we are not ready for it again as a country.

If he performs his functions properly, I am sure the National Assembly will allocate even more funds to this department so that the youth of this country can realise their potential.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Westlands.

**Hon. Tim Wanyonyi** (Westlands, ODM): I also support the appointment of Dr. Owino.

**Hon. Speaker:** Sorry, Hon. Timothy Wanyonyi. We will save your time. Before you proceed, allow me to recognise the presence of students and pupils from Golden Elites, Kisumu Central Constituency, Kisumu County; St. Catherine Nangina Girls Primary School, Funyula Constituency, Busia County; Al Sheikh Muslim Primary School, Mvita Constituency, Mombasa County; Chemamul Primary School, Belgut Constituency, Kericho County; Titus Ngoyoni Memorial Primary School, Laisamis Constituency, Marsabit County; Kibereisit Primary School, Chepalungu Constituency, Bomet County; and, Kerwa Mixed Secondary School, Mbeere South Constituency, Embu County. They are all welcome to observe proceedings in the National Assembly this afternoon.

*(Applause)*

Proceed, Hon. Wanyonyi.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Speaker. I also want to support the appointment of Dr. Francis Otieno Owino as Principal Secretary for State Department of the Youth.

This has been one of the most troubled departments or agencies in the Government. This is an area that has received a lot of attention, not for good reason but for a bad reason; that it has been a conduit of corruption, and is the epic of corruption. I believe a man of his integrity, and coming with such a huge experience from the public sector, he is the right person to put order in that sector and bring some semblance of order that the youth are yearning for. We also need to serve the youth of this country. They deserve to be given the best. It is not always the young that can serve in that department. Anybody, as long as he qualifies and is a man of integrity, can serve in that department. I know Dr. Owino is the right person. I congratulate him for coming this far and the Committee for having vetted him and approved him. We urge him, when he takes this position, to take it seriously and bring order and confidence back in this department. That is so that we can even approve the funds that are assigned to them through the Budget.

I support the appointment.

**Hon. Speaker:** Member for Homa Bay.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I support the Motion for approval of the nomination of Dr. Francis Otieno Owino as the PS for the State Department of Youth.

We had an opportunity, as a Committee, to vet Dr. Francis Owino. He really exemplified deep knowledge in public service and a resolve to change things. We explored with him what he thought around addressing youth unemployment with policy and making sure that the Youth Fund reaches every corner of this country. He had very robust ideas that if he puts into practice will really go a long way in helping the youth.

I would like to just state to Hon. Ndindi Nyoro that we also spoke about his age. We discussed with him and told him, “Now that you are outside the youth bracket, what would you do to connect with young people?” He said youth is not so much the age as it is the heart to handle these issues. If you say that a youth has to be the person in charge of youth, then you might be looking for somebody older than Hon. Angwenyi to be the one taking care of the elderly. What I would like to state is that the gentleman is hugely qualified for this docket.

One of the most impressive things he mentioned during the vetting process was about the National Youth Service (NYS). We asked him how he is going to deal with fraud and theft at the NYS. One of his proposals appeared like what is going to sort out our problem, which is decentralising procurement at the NYS. That is so that we do not have all procurement at the national level and having everybody coming to Nairobi. If there is a base in Hon. Millie’s constituency in the Lambwe Valley or Hon. Mbadi’s constituency in Suba, those people should be able to do their procurement for the people they have there. If there is a base in Gilgil, they should be able to do their procurement so that the national level just remains with a small portion. What has been the problem is that all the money is left in Nairobi and everybody goes to carry it with a sack. If that proposal is implemented as he said – I hope he is serious about it – we should see fraud and theft at NYS going down.

He is a person with so many years of experience. He is an author of books. I believe he will do a good job. Most importantly, like we told him in the Committee, he has to connect with the needs and experiences of the young people of today. We told him, “Dr. Owino is 53 years old today. Even if you were 30 years old, you might not be able to connect with the needs of an 18-year old because of the differences in needs and style.” We believe he will take up the docket. I congratulate him and hope he does a good job.

Thank you, Hon. Speaker.

**Hon. Speaker:** I had seen the Member for Kitutu Chache North, the Deputy Leader of the Majority Party, desirous of saying something. Of course, before Hon. Jimmy Angwenyi speaks, I hope you have noticed that the Whip of the Majority Party has been moving all over. I am sure he is passing some message to many of you. I know you have several Motions of this kind. Some of you come here and request, "I need to contribute to this one because it is for my village or constituency." You get the chance to contribute then you take off.

The Motion is to approve. Was that enough, to have contributed then taken off? For the Members who may not be familiar with this process, it speaks volumes about what you are saying. You just want to be seen saying that you know the nominee, say one or two things hoping... now you have gone to make calls. You never know, you might have left and he fails to be approved. You will have made zero contribution.

Hon. Angwenyi.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you, Hon. Speaker for giving me a chance to contribute to this Motion. At the outset, I want to advise my colleagues here that *panapo wazee, hapaharibiki neno*. Where there are wise old men like me, things do not go wrong, they are clean. Dr. Francis Owino is qualified and I am glad that a committee identified him, his talents and recommended him for that position. I have done a study of six countries in the world which have moved from Third World to First world, starting with Singapore. There is one element that I have found in all these six countries; the element of imparting appropriate skills to the youths. Each of those countries that I have studied have the element that the Government undertook upon itself to impart appropriate skills to the youth. When the youth acquired the skills, the country was able to catapult itself to the First World. The programme that we had has been messed up by the latest developments where some cohorts who are hired in each of the constituencies in the country were supposed to work in the morning from 8.00 a.m., to 12.00 noon. From 2.00 pm, to 5.00 am, they were to be given appropriate skills so that by the time their period there lapsed, they would be qualified in some skills. That is how it was supposed to be but it was messed up. This House also messed up, they were punishing those youths by reducing their budget. We are punishing the wrong people; the youths who are supposed to be benefiting from that budget because of the mistakes of a few people. We are now punishing the entire youth of this country. So, I want to urge this House that when we shall be doing our Supplementary Estimates, we replenish those funds and add some more to the youth.

Under the Management of Dr. Owino, we will move miles. By the time we discuss the Budget next year, we will have received information that Dr. Owino has changed and adopted appropriate management of the youth of this country and I am sure he will achieve that, especially while working with the Cabinet Secretary, Prof. Kobia who is very smart.

We would like thank the Government for the appointment of Dr. Owino. In the southern region of the country, we do not normally get these things. So, we thank the Government for proposing him to take that position.

**Hon. Speaker:** Hon. Millie. She has just changed your name to Odhiambo Akoth. You have an intervention?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Speaker, I rise under Standing Order No. 95. Everybody who has been speaking here is only heaping praises on the nominee. I am sure everybody including myself here will be saying the same thing. Going by the mood of the House and given that we will get opportunities to speak on similar Motions ahead of us like I would like to support Esther Koimett, Priscilla Nyokabi and others, would I be in order to call on the Mover to reply?



*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Hon. Speaker:** Mover!

**Hon. Ali Wario** (Bura, JP): Thank you very much, Hon. Speaker. May I take this opportunity to thank Hon. Members for supporting this Motion? I have heard concerns from some Members on the population of the youth. The percentage of the youth population does not worry me much. What worries me most is the question of unemployment. As a Committee we sat and proposed to allocate Kshs1.5 billion to the Youth Enterprise Development Fund. The core reason behind this Committee's decision was to decentralise this money as loan in each constituency so that youth can do business and employ themselves. Unfortunately, the Budget and Appropriations Committee decided to take away that money and gave it to roads as if youth agenda is not part of this Governments' agenda.

I thank each and every Member who contributed to this Motion; I thank your office and the office of the Clerk for enabling us.

With those few remarks, I beg to reply.

*(Question put and agreed to)*

APPROVAL OF NOMINEE FOR APPOINTMENT AS  
PRINCIPAL SECRETARY FOR STATE DEPARTMENT OF TRANSPORT

**Hon. Speaker:** The Chair of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I beg to move the following Special Motion:

THAT, taking into consideration the recommendations of the Departmental Committee on Transport, Public Works and Housing in their Report on the Vetting of the Nominee for Approval as the Principal Secretary for State Department of Transport, laid on the Table of the House on Tuesday, 7<sup>th</sup> August 2018, and pursuant to the provisions of Article 155(3)(b) of the Constitution, this House approves the appointment of Ms. Esther Koimett as the Principal Secretary for State Department of Transport.

As I move that Motion, allow me to say that on 24<sup>th</sup> July 2018, His Excellency the President forwarded to the National Assembly for consideration and approval the notification of Ms. Esther Koimett as Principal Secretary in the Ministry of Transport. This was in accordance with the provisions of Article 155 (3) (b) of the Constitution and Section 5 of Public Appointments (Parliamentary Approval) Act, 2011. In accordance with Standing Order No.42 (1) and 3(c), the Speaker having read the message from the President referred the name of the nominee together with the CV to the Departmental Committee on Transport, Public Works and Housing to conduct approval hearings.

The Speaker further advised the Committee to conduct public participation as provided for under Article 118 of the Constitution as well as the Public Appointments (Parliamentary Approval) Act, 2011 and report to the House within 14 days.

The National Assembly, having received the name of the nominee, is obliged to conduct approval hearings and make determination on the nominee's suitability or otherwise within 14 days as provided in Section 8(1) of the Act. The Clerk of the National Assembly further placed an advertisement in the media on Thursday, 26<sup>th</sup> July 2018, inviting the public to submit memoranda by way of written statements on oath or affidavit on the suitability or otherwise of the nominee, in conformity with Section 6(9) of the Act. The advertisement indicated that the submissions were to be received by Wednesday, 1<sup>st</sup> August 2018 at 5 p.m.

Pursuant to the provisions of Article 118 of the Constitution, Section 6(4) of the Act and Standing Order 45(3), the general public were on Thursday, 26<sup>th</sup> July 2018 notified in the print media by the Clerk of the National Assembly of the intention of the Committee to conduct vetting of the nominee on Thursday, 2<sup>nd</sup> August 2018. I confirm, therefore, that on the day that was advertised by the Clerk, we did the vetting. In conducting the approval hearing, the Committee examined the nominee against the following criteria as set out in the Act: Academic qualifications; employment records; professional affiliations; potential conflict of interest; knowledge in the relevant area; and integrity.

The Committee, having considered the nominee's filled questionnaire pursuant to Section 6(8) of the Act, the curriculum vitae and having heard her submission during the approval hearings, made the following observations on suitability for appointment as the PS in the State Department for Transport:

- (a) The nominee has a wealth of experience in public service, having been in service for over 35 years, with 25 years in investment promotion, banking, privatisation, public enterprises reform.
- (b) The nominee has been the Investments Secretary at the National Treasury since 2005, where she oversaw the implementation of an ambitious privatisation programme that has seen the completion of concession of a number of parastatals which are very successful in this country.
- (c) In terms of job experience relevant to what we are about to approve her to, if the House considers our recommendations, the nominee has worked as the Managing Director, Kenya Post Office Savings Bank from 2003 to 2005. She has also been Permanent Secretary in the Ministry of Tourism and Information between 2002 and 2005. Further, she has also worked as Investments Secretary in the National Treasury between 2001 and 2002. She was also Deputy Coordinator in the privatisation programme between 1996 and 2001. Further, she worked as Investments Promotion Officer between 1990 and 1994.
- (d) The nominee possesses excellent professional and educational qualities with an impressive work background. She has managed some of the most challenging assignments in her career as a public servant. It is on this background that she has served as Investments Secretary for over 15 years.
- (e) Her academic credentials, professional training and experience were so impressive, in compliance with Section 6(7) of the Act.
- (f) The nominee has never been charged in a court of law. As stipulated under Article 75(1) of the Constitution, she has no potential conflict of interest.
- (g) The nominee satisfies the requirements of Chapter Six of the Constitution on leadership and integrity, having been cleared by the DCI, RPP, HELB, CRB, KRA and EACC.

- (h) The Committee never received any contestation from members of the public on the suitability of the nominee for appointment as a PS in this department.
- (i) Esther Koimett is a household name in this country. But more importantly, maybe people do not know, she is a daughter of a veteran politician, the late Hon. Biwott. The humility she showed before the Committee is beyond imagination. In fact, with that career, we thought this is a CS material, not even a PS.

In conclusion, therefore, the Committee recommends that, pursuant to Article 155 of the Constitution and Standing Order 216(5), the National Assembly approves the nomination of Ms. Esther Koimett for appointment by His Excellency the President as PS in the State Department of Transport.

With those many remarks, I beg to move and ask Hon. Peris Tobiko to second.

I thank you.

**Hon. Speaker:** Hon. Tobiko.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): Thank you, Hon. Speaker. It is my pleasure to second this Motion. In Esther Koimett, I had a chance as part of the vetting Committee, to meet a Kenyan woman public servant of no mean repute. She definitely has very impressive academic qualifications. She also has an excellent career progression in the public service.

The Committee satisfied itself on the various certifications from the relevant Government entities, including KRA, EACC and the others that have cleared Esther Koimett as a person with a clear record. At one time, there was an EACC report that had passed through this House and she was cleared by the EACC that she was not involved in any corruption issue.

Hon. Speaker, Esther Koimett proved to the Committee that she will definitely take the Directorate of Transport to a higher level. She is one of the very few Kenyan women that have been at such levels.

Hon. Speaker, I seek the indulgence of the Chief Whip that although he is very passionate about this job, he should allow us a fair chance to execute the case of Esther Koimett. I personally, together with other Members of the Committee, felt that she is one public servant who still contributes a lot to this country.

Thank you, Hon. Speaker.

**Hon. Speaker:** You second?

Hon. I second

**Hon. Speaker:** Member for Yatta, since your coming back to the House, you have assumed a method of just walking about and maybe it has to do with the constituency.

*(Question proposed)*

Hon. Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I do not know why the Hon. Deputy Leader of the Majority Party is so keen on having us conclude debate today. I rise to speak to this Motion. I have no doubts in my mind on the qualifications, the competence and ability of Esther Koimett. I have known her for some time now. She has worked at the National Treasury successfully. She is a very humble lady and that is a plus for her despite her privileged background. She is a very humble lady which is very rare in most circumstances.

However, the reason why I have decided to make my contribution on the appointment of this nominee is that there is something hanging on her that she needs to work on. I remember in 2011, there was an investigation on the disposal of land owned by the Kenya Railways. Ms.

Esther Koimett was indicted by this House. The Public Investments Committee (PIC) investigated a parcel of land in Lavington, which she acquired irregularly. Despite the fact that that land was advertised, the highest bidder, who was supposed to be allocated that land had bid for about Kshs11 million. Under unclear circumstances, Ms. Esther Koimett, who could not even bid, was given that land and paid only Kshs6 million. It was clear to the Committee that she used her influence in her office to get that land. The National Assembly recommended that she should not hold a public office. Even though it has taken about seven years, she needs to clear her name with the PIC. This is because this House cannot make recommendations, adopt them and then the following day, the same name is brought to us for appointment and what we hear are nothing but praises. If someone has not conducted herself well at one point in a State office, it should be mentioned.

Even if we are going to approve her appointment, she should know that her integrity in so far as that matter is concerned has not been fully addressed. So, as a loyal Member of this House, I am going to agree because I see the Committee decided to do a background check, but I do not know if they were privy to that information. Now that they have recommended her appointment, I just want to say that even as we approve her appointment, that issue is still outstanding.

This Parliament recommended that Esther Koimett should not hold a public office. The question I am asking is: Are we going to promote someone we have recommended not to hold a public office? In my view, that is something that this House should not do. This House must hold fidelity to reports that we pass here. I have heard Members complain here many times that whatever we pass here is never implemented. Then today we are approving an appointment of someone who has been indicted by a report of this House. How will I go on record supporting this appointment? My view is simple that unless that matter is sorted out, Ms. Esther Koimett has something to explain to the people of Kenya. I cannot support her appointment as a Principal Secretary yet in her current office, we had recommended that she should not hold office. In fact, it is only that sometimes the Government is not keen in implementing the recommendations of this House. Otherwise, she would not be holding public office. So, I oppose this appointment on the basis that this House had recommended that this officer cannot hold a public office.

Thank you, Hon. Speaker

**Hon. Speaker:** The Deputy Hon. Leader of the Majority Party.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you, Hon. Speaker. I support this recommendation. Madam Koimett met all the thresholds of integrity, experience and qualifications. If she may have committed an offence eight years ago, she must have corrected it. In any case, we are not sure about those bids because a lot of people bid when, in fact, they do not intend to purchase the items. They do this to make it impossible for the correct people to acquire property.

Hon. Speaker, it was the Kenya Railways Corporation which was selling land and they decided to sell to her at Kshs6 million. Those days, that amount was like Kshs600 million today. So, the House may have passed that recommendation. However, why were you waiting? She has been working in the public service. Why did we not ask to have it implemented during the last seven years? This House should rise up. Let us not look at individuals on the basis of community or political affiliations. This lady has worked very well in the National Treasury.

**Hon. John Mbadi** (Suba South, ODM): On a point of order.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): I did not raise a point of order when you were alleging things. We should support this appointment

**Hon. Speaker:** Hon. Mbadi, what is your point of order?

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, is Hon. Angwenyi in order to impute improper motive on me, that the matters that I have raised are based on ethnicity? I have cited a report of this House by the PIC, which had indicted Esther Koimett. It is not Mbadi who has indicted her. I have just raised my concern that how do we approve this? So, is he in order to impute improper motive given that I am the only one who has spoken against the approval of Esther Koimett?

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Hon. Speaker, is the Leader of the Majority Party in order to impute...

**Hon. Speaker:** Hon. Angwenyi, he rose on a point of order and now you want to respond by another point of order. How is that? Hon. John Mbadi raised the issue that the indictment that he raised was contained in a report of this House. So, you cannot claim that it is he who is raising that issue. So, you can now defend the House.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Hon. Speaker, I am not raising any improper motive on his part, but I do not also think it is correct for Hon. Mbadi to impute improper motive on a committee of 19 Members, who are experienced, have the facts and have unanimously approved this appointment. Again, even in religion, you may commit an offence today, but if you apologise or beg for forgiveness from God, God forgives you. She must have been forgiven if she did that mistake. That is how she continued working in the Government.

Hon. Speaker, let us approve Ms. Koimett for this position.

*(Hon. Samuel Atandi raised his hand)*

**Hon. Speaker:** This new Member has not known that here we do not raise hands. Just stay. You do not seem to have a lot of hair on your head. The Swahili will tell you something about lack of hair. Next is the Member for Muhoroni.

**Hon. Onyango Oyoo** (Muhoroni, ODM): Thank you very much, Hon. Speaker. I had actually intended to speak to the Motion that was proposing the appointment of the PS for Labour and Social Welfare. All the same, I think these are very able Government servants that have been proposed. I want to say that Madam Esther Koimett has had a checkered career in the National Treasury. She has had a long career. She is a bright Kenyan and I am happy that despite the record that Hon. Mbadi has tabled here, Esther, together with the newly appointed PS for Labour and Social Welfare, are serious career civil servants who have had checkered careers emanating from a long period. That is what it takes to be there. They are bringing on board a lot of experience and competence. This will help us mitigate the vice that has come into being today where most PSs and major Government appointments are considerations done to various corporate personalities, more so those who have been working outside the Government, but are known to be quietly supporting political parties while working outside. This vice was eating into the fabric of the Civil Service such that there is a lot of stagnation in the line of appointment for career civil servants.

Esther Koimett has done a very good job at the National Treasury and she is a very humble person as has been described. Until today, very few street people like us knew she was the daughter of the dreaded late Kipyator Biwott. What we met is Esther Koimett, the officer we went to see. She has what it takes. I support the appointment and leave everything else to the procedure. If there is any indictment that was done, I hope the Government has several other mechanisms that can help us unravel that.

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I join my colleagues to support the Report of the Departmental Committee on Transport, Public Works and Housing on the vetting and approval of Madam Esther Koimett for the position she has been nominated to serve as a PS in the State Department for Transport. Madam Koimett has been working in the National Treasury as an Investments Secretary and Director-General, Public Investments and Portfolio Management since 2005. Those are serious portfolios at the National Treasury. I am sure the President nominated her to serve as PS at the State Department for Transport because of the kind of investment and portfolio management skills and expertise that she has. Of course, Esther is the daughter of the late powerful man, Hon. Kipyator arap Biwott or the 'total man'.

The nominee held that directorship position in her current and previous employment and in a number of organisations relevant to the transport sector. She participated in the investment turnaround of the Kenya Railways Corporation, the Kenya Ports Authority (KPA), the Kenya Airways and she was instrumental in the formation of what we have today as the Privatisation Commission in Government.

She holds a Master's Degree in Business Administration from the University of Nairobi. Ms. Esther Koimett also, within the reading of the Act in terms of whether the person qualifies, qualifies. She has the experience and the academic qualifications. Based on the letter attached to the Report from the EACC, the EACC has indicated to the National Assembly, in writing, that she has been cleared of any economic or corruption-related crime. The nominee has also been cleared by the Criminal Investigation Department, the Kenya Revenue Authority and other organisations like the Higher Education Loans Board. Madam Esther has never been dismissed from office for contravening the provisions of Article 75 of the Constitution, which deals with the conduct of State officers. She has never been adversely mentioned in statutory reports.

While I was away, the Leader of the Minority Party raised something. I really want to agree with him that the Telkom Report and the KPA Report of 11<sup>th</sup> Parliament mentioned Madam Esther. However, Parliament does not charge people. It recommends to other agencies like the EACC. Parliament said that there were certain issues, but the EACC said that after due diligence and investigating, they found Esther Koimett to be cleared and to have no pending case. So, even if she was mentioned in one way or the other by a parliamentary committee, the recommendation of that committee was sent to the relevant agencies of Government. They did due diligence on Madam Esther Koimett and they have given her a clean bill of health.

Madam Koimett will be among the first female PSs to hold that coveted position of PS in the State Department of Transport. I am sure the men and women who worked with her at the National Treasury will confirm that Esther Koimett is a performer. Of course, pursuant to Article 155(3) of the Constitution and the National Assembly Standing Order No.216(5)(1), the Departmental Committee on Transport, Public Works and Housing has approved the nomination of Madam Esther Koimett. I really urge my colleagues that in terms of vetting, we have been given the marking scheme. Notwithstanding your history, you have been given the marking scheme in Article 75 of the Constitution.

We have been given the marking scheme that certain State organs and institutions must write confidential letters to the National Assembly and that we must vet a person based on the Public Appointments (Parliamentary Approval) Act of 2011. Is the person qualified in terms of experience and educational qualifications? Holistically, Esther Koimett meets all the criteria and I am sure she will join the many women who serve in the Government of President Uhuru Kenyatta. This is the only Government that has given women more robust positions. We are the

only country in Africa where the Defence Cabinet Secretary, the Foreign Affairs Cabinet Secretary and many other key portfolios are occupied by the women of Kenya.

With those many remarks, I support the Motion and ask my colleagues to approve the nomination of Esther Koimett to the coveted and prestigious position of Principal Secretary for State Department of Transport.

**Hon. Speaker:** Let us have the Member for Alego-Usonga.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Speaker. I oppose this Motion because from the Report that has been read to us by the Committee, we have been told that Esther has worked in the Government for many years, moving from one position to the other. Before we approve somebody for a very important position like a PS, we must interrogate the successes and contributions that she achieved in those positions. When you go deeper into her contributions in those positions, you will not see anything spectacular.

Let me start by highlighting one of the most recent responsibilities that she had as Investments Secretary in the National Treasury. The Investments Secretary is the person who assists the Government in making investment decisions in various parastatals. There have been some decisions made in that respect where some parastatals have collapsed and we did not really interrogate what role the Investments Secretary had in the decisions that resulted in those parastatals collapsing.

Secondly, during her tenure, the Government invested in some of the most expensive infrastructural projects. Some of those projects have resulted in our public debt hitting the roof. Those are some of the decisions that she must take responsibility for.

Lastly, I worked in the banking sector. For any Government agency to invest funds in any commercial bank, her decision must be sought. She sits on all those Government agencies. A number of parastatals in this country have lost funds in commercial banks. We have not seen her coming out and taking responsibility for those collapsed banks where Government resources were lost. The fact that we have a problem with the performance of our National Treasury, where she had occupied a very central role, demonstrates that this is not a very competent person to sit in the Ministry of Transport, Infrastructure, Housing and Urban Development as a PS.

Currently, we are grappling with issues of inefficiencies at the Kenya Ports Authority and various parastatals that are responsible for this docket where she is supposed to serve. She is 61 years old. That means she is past retirement age. We know that in this country, children of the rich do not work hard. Even if they rise in positions, they do so because of favours. I plead with the House to reject this appointment because if we approve it, it will cause confusion in this Ministry. We need to have somebody who will demonstrate competence.

*(Loud consultations)*

**Hon. Speaker:** What is out of order, Hon. Mbarire?

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Speaker, the Hon. Member has made a very weighty statement that the children of the rich do not rise because they deserve it or they work hard for it. Is the Member in order to insinuate that while we know, seated where he is, he is considered to be a rich man by Kenyans because he is a Member of Parliament? Is he, therefore, saying that his children do not have capacity to rise to the top and that they get there by favours? Can he even define richness? We know big and great leaders in this country - one of them being his party leader - who did not come from poor families, but have contributed immensely to this nation's growth. Is he saying that he got there through favours or did he work

for it? There is also our current President. He should not insinuate such things. That is what I mean.

**Hon. Speaker:** Hon. Mbarire, you are a senior Member of this House. That is a point of argument. This is a new Member. He just came from Alego-Usonga.

*(Laughter)*

You know where Alego-Usonga is. If you teach him this way of interjecting, he is likely to think that, that is the way business of the House is transacted. I just cautioned him against raising his hand every time. He might think that is what is done. Let him continue with his contribution. He does not have to withdraw.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Speaker. Hon. Mbarire is putting her case across, but I do not think it qualifies as a point of order.

As I conclude, we know who Nicholas Kipyator Biwott was in this country during the time Esther Koimett was rising in her positions. The truth of the matter is that the positions she has held in Government are not due to her competence, but because of favours. That is why I insist that this is not the best person to sit in this position. I plead with the House to be decisive and help the President get the right person to sit on the Ministry of Transport, Infrastructure, Housing and Urban Development as a PS, so that this country can grow and see our Big Four Agenda realised.

*(Loud consultations)*

**Hon. Speaker:** I want to hear the Member for Baringo North.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Speaker. I rise to support the Motion.

The Committee has taken time to vet the nominee. I refer to Page 11 of the Report. When you look at the nominee's abilities, it is clear she possesses excellent professional and educational qualities with an impressive work background. This nominee has spent 35 years serving this country without any situation during those years where her conduct has been doubted. That is exactly why the President nominated Esther Koimett to serve in this position of PS, if approved by this House.

The nominee's experience and qualities are also very impressive. What is very important, and I think Members have noted, there is public participation in this.

I want to refer Members to Page 12 of the Report. By the close of business on Wednesday, 1<sup>st</sup> August 2018, the Committee had not received any written memorandum on oath from the public. This is something that we need to take note of. Even when Kenyans were given a chance to raise issues which they think should stop this House from approving the nomination of Ms. Esther Koimett, there were no memoranda from the public which objected her nomination. What does that mean? It means that Kenyans have no issue. Hon. Mbadi said that they do not know about it. We all know that the only way we can reach out to Kenyans to give their views on a nominee is through public participation. There is no issue or memoranda on oath which was filed against this nominee. I have known Ms. Esther Koimett for some time. She is a very committed Kenyan. She is a truthful and very hardworking Kenyan. The Report is so clear of the achievements which she has achieved when she served as an Investments Secretary in the National Treasury.



Hon. Mbadi had an issue about one of the reports of this House. That is okay. An issue was raised in a report of this House with recommendations to various agencies to investigate Ms. Esther Koimett. When those agencies were given a chance to comment on this nominee, there was no objection. We have copies of those letters from the EACC and the Director of Criminal Investigation, which say that they do not have an issue with the nominee.

**Hon. John Mbadi** (Suba South, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Mbadi, what is your point of order?

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, is it in order for Hon. Cheptumo to mislead the House and misrepresent what I said? The Report of the House is clear that the House recommended that Ms. Esther Koimett should not hold a public office. That is not the same as to be investigated. So, there was no recommendation to other State agencies to investigate and clear her. The House was satisfied with its findings that she was culpable. Therefore, she should not hold a public office.

The person who was supposed to get her out of office did not do that. Hon. Cheptumo is misleading the House and misreporting what I said. As a House, we approved that she should not hold a public office. It was not a recommendation for further investigation.

**Hon. Speaker:** I want to set the record straight on this matter of House recommendations. To recommend that a person should not hold a public office is one thing. However, remember that the House has not appointed the person. So, the appointing authority has to look at the Report of the House, and see the basis of the recommendation. Inevitably, the appointing authority has to do some inquiries and/or investigations to either agree with the House recommendations or not. The Members who only served in the 10<sup>th</sup> Parliament may not have come across something called implementation status of House recommendations. Whoever the recommendations are directed to is obligated to report through that mechanism of implementation status whether this recommendation can be carried or not.

The House can make a recommendation and that is the furthest it can go. It can make a recommendation that somebody should start going to a church instead of a mosque. If the House recommends that Hon. Duale should be attending the service at All Saints Cathedral and he does not go there, will you hold him culpable of not obeying the recommendation of the House? You will not do that. That is why it is important for House committees to be precise in their recommendations because you may make a recommendation that will just hang. Who will implement it? You can make a recommendation that we annex Seychelles to be part of a province in Kenya. We shall be saying that this is what we recommended. We do not expect Seychelles to have a President. Will that be implemented? And by whom? Is it by the United Nations or the African Union (AU)?

*(Laughter)*

It is true that the House recommended that Ms. Esther Koimett is not fit to hold a public office. I am not disputing what Hon. John Mbadi said. If you recommend that a State officer or a public officer, which is used interchangeably in Article 260 in the Constitution, should not hold a public office, that recommendation must be acted upon by some other agency. You have played your part. That other agency, which is to make the determination is at liberty to investigate what Parliament has said. You have heard some of your recommendations being cited in proceedings in courts. Some people argue that these are recommendations of politicians. Some people dismiss the recommendations that way. However, you still shall have done your part as a House in

making the recommendation. Others who are supposed to act on them are at liberty to interpret them in whichever way. If they decide that it is not necessary to go by the recommendation of the House, so be it.

In their implementation status, they will tell you that they do not agree with that recommendation. They will tell you that they carried out investigations and give their findings. On the basis of their findings, they can tell you that this recommendation is not capable of implementation in the manner in which it is recommended. The matter rests there because you will have done your bit and the other agencies will also have done theirs. For that reason, I urge our current committees to stop making some vague recommendations. If you do not want a State officer or public officer to hold a public office, then you must recommend investigation to be carried out by some specific entity because you must give reasons. If you say that you found a public officer or State officer was walking nude and say that he should not hold a public office, who will implement that? He will say that he found the person very well dressed. Even as we make our recommendations, we need to be careful on what we want done and by who. It should not be left hanging. You must direct a particular office or agency to do further investigations that you are not capable of doing. Both of you are right. Hon. John Mbadi is right that there was a recommendation and that is what was recommended.

Again, what has been said by both the Leader of the Majority Party and Hon. Cheptumo is still correct factually because imagine if we just say we have recommended this or that, then people will not hold offices. Proceed.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Speaker. I appreciate your clarification on that issue. Even on matters of integrity, this nominee, from the Report, has never been dismissed or removed from office and she has never been charged in a court of law. Looking at all the requirements, the nominee, in the opinion and recommendation of the Committee, can hold the office she has been nominated to serve in.

I join those who support this Report and request Members to support it so that we have the nominee appointed to the office of the Principal Secretary, State Department for Transport.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, as I weigh into this matter, let us also appreciate that this House has recommended several people not to hold public or State offices. I can give you many examples of Members of Parliament in this House and the other House who have been recommended by committees in reports, which have been adopted in this House, not to hold public office. I do not know what we will do because some of them maybe sitting with you. It is true. Fortunately, I have some memory about some of those names. There are many who it has been recommended that they should not hold public offices yet they are here serving as Members of Parliament. Some are in the other House. It has quite a number and some of them were in this House in the last Parliament.

In the 10<sup>th</sup> Parliament, if you look at the previous reports of the Public Investments Committee, you will find several of them who had been recommended not to hold public office. Some even ended up being appointed as Cabinet Ministers. They were with you in the 10<sup>th</sup> Parliament. Go to those reports. So, what happens? The House did its part and left the public to deal with the rest. Of course, even the public ignored your recommendations and elected them. You only exercise delegated authority. Hon. John Mbadi, this matter is very weighty.

Hon. Members, I see we still have quite some business, let me put the Question.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Hon. Speaker:** Mover.

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I beg to reply. As I do so, I thank the Members who made very substantive contributions including Hon. Mbadi. But I wish Hon. Mbadi could revisit his part of contribution, which is that he does not want to support my Report. I respect Hon. Mbadi. He should revisit that part so that we can proceed.

In terms of performance, we have also forgotten that Safaricom and KCB were also part of it and both are successful.

With those few remarks, I beg to reply.

**Hon. Speaker:** Hon. Members, having confirmed that the House has quorum, I proceed to put the Question.

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

APPROVAL OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON AND MEMBERS OF THE NATIONAL GENDER AND EQUALITY COMMISSION

**Hon. Ali Wario** (Bura, JP): Hon. Speaker, I beg to move the following Special Motion:

THAT, taking into consideration the recommendations of the Departmental Committee on Labour and Social Welfare in their Report on the Vetting of the Nominees for Approval as the Chairperson and Members of National Gender and Equality Commission, laid on the Table of the House on Tuesday, 7<sup>th</sup> August 2018, and pursuant to the provisions of Article 250(2)(b) of the Constitution and Section 11(7) of the National Gender and Equality Commission Act, 2011, this House approves the appointment of the following persons as the Chairperson and Members of the National Gender and Equality Commission:

- (i) Dr. Joyce Mwikali Mutinda - Chairperson;
- (ii) Hon. Priscilla Nyokabi Kanyua – Member; and,
- (iii) Dr. Murithi J. Chomba Munyi- Member (Person with Disability).

I will be very brief on this one because of interest on time. We sat as a Committee and interviewed Dr. Mwikali Mutinda as the Chairperson of the National Gender and Equality Commission, Hon. Priscilla Nyokabi Kanyua and Dr. Murithi J. Chomba as members.

The Clerk of the National Assembly sent an advertisement through the media asking Kenyans to give us memoranda on the suitability or otherwise of the said nominees. We received one memorandum in support of Hon. Priscilla Nyokabi. We again wrote to the Ethics and Anti-Corruption Commission, Directorate of Criminal Investigation, Registrar of Political Parties and Higher Education Loans Board to give us any concerns on the nominees. They have been given a clean bill of health.

In terms of education, experience and exposure, the Committee is fully satisfied with the Chair, Dr. Joyce Mwikali, Hon. Priscilla Nyokabi, and Dr. Murithi who lives with disability, but has two PhDs. So, the Committee is contented with their suitability. The only concern the

Committee had is an appeal to the appointing authority. This is a Commission of five commissioners and two are in office. One will retire in November this year and the other next year. This is not a commission like any other. It is a Commission on gender and equality. The two members who are already in office are women. My appeal to the appointing authority is that if today this House approves the appointment of the chair and the two commissioners, whose composition is two females and one male, when the other commissioner retires in November, the appointing authority should propose a male commissioner for appointment.

In conclusion, my Committee proposes the appointment of the chair and the three commissioners because they have satisfied all the issues we put before them.

Thank you. I ask my able Vice-Chair to second this Motion.

**Hon. Speaker:** Member for Bomet.

**Hon. (Ms.) Joyce Korir** (Bomet CWR, JP): Thank you, Hon. Speaker. I rise to support the Report that has been moved by the Chair on the approval of the nominees for appointment as chairperson and members of the NGECC, namely, Dr. Joyce Mwikali Mutinda as the Chairperson, having an experience of about 40 years, Hon. Priscilla Nyokabi Kanyua, a former Member of this House and a former Vice-Chair of the Departmental Committee on Justice and Legal Affairs, and Dr. Murithi Chomba Munyi, a person living with disability. The Committee did the vetting. I congratulate the Committee, the Chair and the Clerks for the Report they have come up with. All the three nominees possess the requisite qualifications, experience and exposure for the respective positions they have been nominated to.

I beg to second.

*(Question proposed)*

**Hon. Speaker:** Members, let us listen to Hon. Otiende Amollo. There is an interesting point he has.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. Mine is an intervention. It is a fundamental intervention that goes beyond the names proposed here. I rise under Standing Order 47(3) in terms of the constitutionality of the proposed Motion as read with Section 7 of the Public Appointments (Parliamentary Approval) Act. Under Article 94(4), the fundamental role of this House, as a House of Parliament, is to protect the Constitution and promote democratic governance.

It, therefore, takes us to Section 9 of the National Gender and Equality Commission Act that talks to appointment of commissioners, which is well cited by the Committee. It states that there shall be a chair and four commissioners appointed in accordance with the Constitution and the Act. Article 27(8) requires this House, in accordance with its mandate, to ensure that there is no more than two-thirds of either gender in appointive positions. The position must be taken. Let us take judicial notice that there are already two very able serving commissioners both of whom are ladies. There is Dr. Gumato Ukur, a very able commissioner, and Florence Nyokabi Wachira, a very able commissioner. What that means, in my understanding, is that in this instant appointment, we have to appoint only one lady and two men. Unfortunately, the Chair - and I sympathise with him - says that he notices that point and says that we should remedy it in future. What he is saying is that we should breach the Constitution now so that the appointing authority can remedy in November. That cannot be. If this House, which should uphold democratic values breaches that, then, even those who stand for firm gender equality will suffer when in other institutions they put more men than ladies. In my understanding, if you have to have five

commissioners, one-third is 1.6666. In other words, it is 1.7 per cent. That, therefore, must equate to two rather than one.

It is my belief that in upholding gender equality, we must not do gender suppression because the effect will come to haunt us even on the very weighty matters that we are going to consider in future of how to engender this House in terms of the constitutional requirements. Therefore, with tremendous respect to the Committee, I submit that they may have not foreseen or sufficiently considered this matter. They are, therefore, inviting the House to breach the Constitution.

Hon. Speaker, I invite you to give guidance on this because we are in danger of breaching the Constitution. Thank you.

**Hon. Speaker:** Leader of the Majority Party, do you want to address the point?

**Hon. Aden Duale** (Garissa Township, JP): Yes, Hon. Speaker. I have a lot of respect for the former Ombudsman and current Member of Parliament for Rarieda. What is before this House is the three names sent by the appointing authority. What Hon. Otiende is telling you to address is the full composition of the NGEC. This is a commission that is constituted through a staggering process. In fact, there are two commissioners of one gender whose term is coming to an end. You remember that even at the beginning of this Parliament, the President sent you seven names of Cabinet Secretaries. The same question came to fore: How do we address gender parity in the total composition of the Cabinet? I am sure my colleagues who are in the Committee on Appointments remember we argued over it for a long period. We can, as a House, only address it in as far as the message that you have received, read and sent to a committee. Do those three names constitute the constitutional threshold of gender parity? We have two women and a man. That is the compliance standard. This House cannot legislate in vain or in anticipation. This House can only legislate on a matter before it either from the Executive, the Senate, individual Members or from the Executive through the Leader of the Majority Party.

Hon. Speaker, you can only address yourself to the message that came to you, which you read and sent to the Committee. If the five commissioners of the NGEC were appointed on the same day, that principle would have applied. Hon. Speaker, address yourself to what is before the House. What message have you read? What did you refer to the Committee? The Committee has vetted and the report before the House is about three individuals. Those are the only three individuals that the Committee or this House can subject to certain thresholds.

The only commission whose appointments we have received in full is the one you read yesterday, namely, the Independent Policing Oversight Authority (IPOA) and by extension, the Sarah Serem's Salaries and Remuneration Commission (SRC). It is not the first time you are giving guidance. You must address us to the message we have received from the Executive that was referred to the relevant Committee.

**Hon. Speaker:** Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker.

The issue Hon. Otiende Amollo has raised is so fundamental. It is a matter that we need to address. The only unfortunate thing is that we are raising this issue of gender only where the gender that has always been disadvantaged is the one that has been advantaged today. If it was the other way round, I would have said that we, as a House, need to open a new chapter by rejecting these appointments on the basis of gender. I will not agree with what the Leader of the Majority Party said, that we are just approving three names. We are approving three names to join a commission. Already, there are members in that commission. The joining of these three members is going to destabilise the gender equity and the threshold as provided for in the

Constitution. Therefore, we cannot say that we have to be blind to the fact that the gender balance is tilted. The reason Parliament is vetting nominees from the Executive is not just to look at their qualifications and academic capacity. It is also to look at other factors which include gender, marginalised groups and inclusivity. We need to look at all these matters in totality.

Hon. Otiende is perfectly in order to raise this matter only that I am reluctant to support that route because, in this House, we have passed appointments with skewed gender composition in favour of men. If it is in favour of women today I am going to be blind again and approve because we have done it for men. Otherwise, we are going to be seen as a House that only looks at the welfare and interest of men. That is the only reason I will disagree with Hon. Otiende, not that he does not have a point. He has a point, but I ask him to keep his point until that time when the appointments by the President or whoever is going to bring some to this House will be in favour of men to the disadvantage of women or in contravention of the Constitution. Then, we will start making sure that we follow the Constitution. If we start it today, I am afraid we are going to be seen as a House that does not care about women of this country. That is my only fear. Otherwise, I would have supported him on this.

This brings me to question a fundamental issue of the advice that the appointing authorities get or receive either from legal advisors or the Attorney-General before it forwards names to this House. The appointing authority is supposed to see what Hon. (Dr.) Otiende Amollo sees and look at all these constitutional requirements. It should have known that there are already two women in that commission. Therefore, only one woman could be brought. Where there are more men, he should only bring the additional. I heard Hon. Duale say that there are people who are about to retire. Why could the President not keep one of these eminent women until that time? One of the women is our colleague, Hon. Priscila Nyokabi, who has been here. I am very reluctant to oppose her appointment to any position. Why could we not keep one of the ladies for appointment until when the others retire? The appointing authority, which is the President and the advisors need to take note.

**Hon. Aden Duale** (Garissa Township, JP): Including *Baba*.

*(Laughter)*

**Hon. John Mbadi** (Suba South, ODM): No. I am sure *Baba's* opinion was not sought on this. Otherwise, it would have been done differently and I would have known that the opinion was sought. Probably, I would have helped to advise differently.

Back to the serious matter before us, I ask that we allow this debate to proceed. It is on the basis that today, maybe for the first time in the history of this country, we are seeing more women given more positions in a commission. The only unfortunate thing about it now is that the commission is about gender. I wish it was another commission. When it is a commission on gender, people might think that that is the reason we are giving more women appointments. That is not to demean this commission. This is a very important commission.

I support. I thought I am debating. I urge you to rule that we proceed with the debate. I am sure Hon. Otiende is now persuaded enough to relax and let this matter proceed. Thank you, Hon. Speaker.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker.

I thank both the Leader of the Majority Party and the Leader of the Minority for the insight. I also thank Hon. Otiende for raising this matter. It is a matter that we agonised over in the Committee. That is the reason the Chairman raised it. He actually raised it as a solution. You

will realise that the commissioners we are replacing had one gentleman and four women commissioners. That issue was not raised previously. So, we were taking on the progressive approach. Now that we are seized of this matter, we want to resolve it progressively. That is why we have said that we will remedy the situation as soon as the two commissioners leave. It is just later this year. So, it is a matter that the Committee that oversees the commission is seized of. We will remedy it. Because the matter has come up, we are advising the appointing authority to ensure that this matter is remedied as we move forward. We are seized of it and it is being addressed. It is not to say that the issues raised by Hon. Otiende are invalid. They are valid. As the Leader of the Minority Party has said, today is a bad day to raise them. We had really invested in the commission we are speaking about here. Hon. Priscila Nyokabi was one of the most brilliant Members of the 11<sup>th</sup> Parliament. It would be unfortunate that this hitch comes on a day we really want to approve a really brilliant member who is going to make a difference within the Gender and Equality Commission.

Thank you, Hon. Speaker. May you rule that we proceed?

**Hon. Speaker:** Well. Obviously, you know that the issue raised by the Hon. Otiende Amollo is a valid one on the basis of Article 27(6) and (8), which is in the Bill of Rights. But again, it is one of those very baffling situations. Like Hon. John Mbadi has said, it is a very unfortunate situation because an issue has even been raised why it is that we have not even addressed the issue of the two-thirds gender rule. I am sure we are lucky in this House in that we have Hon. Otiende Amollo. It is clearly provided in Article 81 that the rule should be respected even in the electoral system. If we had cured the problem in the electoral system, all these issues we have been grappling with here would be easier. I am sure it would have been a lot easier to deal with the appointive situations. What I hear Hon. John Mbadi, Hon. Gladys Nyasuna Wanga, Hon. Duale, and Hon. Ali Wario, who is the Chair of this Committee, saying is that we acknowledge those provisions, but say that we leave the issue of interpretation to those mandated to do so under Article 165, so that we proceed. We hope that the interpretation comes after November, in which case, it might be a moot point.

The other issue is the relevant law, the Public Appointments (Parliamentary Approval) Act. Even if we do not approve, the law says that they will stand approved and duly appointed. It is one of those things that we should ask Hon. Otiende Amollo to get an interpretation from the Supreme Court. There is this debate about progressive implementation. Hon. Otiende Amollo, do you want to concede something?

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Hon. Speaker, as you know, it is my duty to point out constitutional matters. I respect the Leader of the Majority Party and Hon. Gladys Wanga who concede the unconstitutionality, but plead that on the basis of expedience, we pass the name. I associate with that, but not with the Leader of the Majority Party who seeks to misinterpret the law. I am willing to concede that, particularly on the basis that this House has been known to commit many more fundamental errors on that score. I concede that we continue with the debate and approve the names.

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**Hon. Speaker:** Mover!

**Hon. Ali Wario** (Bura, JP): Thank you very much, Hon. Speaker. May I take this opportunity to thank Hon. Members who supported this Motion? We have heard Hon. Otiende

loud and clear as a Committee. I earlier on raised the same concern. I give an undertaking to this House that come November, if this Committee is not given the name of a male commissioner, we will return to sender.

With those few remarks, I beg to reply.

*(Question put and agreed to)*

APPROVAL OF NOMINEES FOR APPOINTMENT  
AS HIGH COMMISSIONERS AND AMBASSADORS

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Speaker, I beg to move the following Special Motion:

THAT, taking into consideration the recommendations of the Departmental Committee on Defence and Foreign Relations in their Report on the Vetting of the Nominees for Approval as High Commissioners and Ambassadors, laid on the Table of the House on Tuesday, 7<sup>th</sup> August 2018, and pursuant to the provisions of Article 132(2)(e) of the Constitution, this House approves the appointment of the following persons as high commissioners and ambassadors:

1. Mr. Francis Ndegwa Muhoro - High Commissioner to Malaysia.
2. Mr. Manoah Esipisu - High Commissioner to the United Kingdom.
3. Hon. Benjamin Langat - High Commissioner to Namibia.
4. Ms. Sarah Serem - Ambassador to China.
5. Lt. Gen. Samuel Thuita - Ambassador to Israel.
6. Hon. Patrick Cornel Odero Ahenda - Ambassador to Qatar.
7. Amb. Peter Nicholas Oginga Ogego - Ambassador to Saudi Arabia.
8. Lt. Gen. Johnson Kimani Ondieki - Ambassador to Turkey.
9. Mr. Chris Karumba Mburu - Ambassador to South Sudan.

The office of ambassadors and high commissioners is an office under the Ministry of Foreign Affairs and their duties are as follows:

The advancement of protection of Kenya's interest in host countries and countries of accreditation through innovative diplomacy;

- (i) Promotion of Kenya's influence in international decision-making;
- (ii) Protection of Kenya's sovereignty and territorial integrity;
- (iii) Promotion and strengthening of bilateral and multilateral co-operation ties;
- (iv) Promotion of sub-regional, regional and international integration and co-operation; and
- (v) Promotion of public diplomacy among other duties.

Hon. Speaker, I will summarise, but you will bear with me. These are nine nominees. The Departmental Committee has followed the procedures as laid down in the Constitution and other Acts of Parliament and Standing Orders in vetting those Kenyans. I would say without going into details of individuals that all the nominees were cleared by the relevant authorities as required by law; that is, HELB, EACC, KRA, DCI and the Registrar of Political Parties. They are all compliant. These are Kenyans and in trying to achieve regional balance, the nine candidates are from nine different counties.

In terms of work experience, Ms. Sarah Serem has 30 years of work experience, Mr. Thuita has 40 years working experience, Mr. Muhoro has 25 years working experience, Mr.



Manoah has 20 years working experience, Mr. Ahenda has 34 years working experience, Mr. Oginga Ogego has 18 years working experience, Mr. Ondieki has 34 years working experience, Mr. Karumba has 40 years working experience and Mr. Langat has 15 years working experience. Mr. Langat is the youngest at 42 years.

I just want to say that the nominees are people who have served in public office in this country for long and they all meet the requirements as stipulated in law. I just want to highlight one thing, during the window of public participation as required by the Constitution and by the Public Appointments (Parliamentary Approval) Act, Parliament advertised and gave the public a chance to participate. We only received two memoranda that were contesting the suitability of one nominee, Mr. Ndegwa Muhoro. There were no other memoranda against other nominees. One of the memoranda that was sent was dismissed because it arrived past the deadline. It came when the nominee was already vetted by the Committee. There was one by Ahmed Abdulaziz Nassir and we agreed as a Committee that the memoranda lacked merit and, therefore, it was not adopted. Therefore, on behalf of the Committee, I would like to present that in accordance with Article 78 (1) and (2) of the Constitution all nominees are Kenyan citizens and none of them holds dual citizenship. They all have impressive academic credentials, professional training and experience as required by the Public Appointments (Parliamentary Approval) Act.

All nominees were cleared by the relevant authorities. None of them has been convicted in a court of law or adversely mentioned by a parliamentary committee or commission of inquiry. There is no potential conflict of interest. They do not intend to participate in any other gainful employment. None of them is an official of any political party. Therefore, it is the view of the Committee to persuade this House to approve the names.

With those remarks, I beg to move and request the Member for Belgut, Hon. Koech, to second.

**Hon. Speaker:** Hon. Koech.

**Hon. Nelson Koech** (Belgut, JP): Thank you very much, Hon. Speaker. Like my able Chairman has mentioned, all these nominees are very competent. I would not like to add much. Just allow me to say that on Sarah Serem, there is a softer side about her that colleagues in the Committee appreciated and which should inform the decision we are going to make today. She is not only a woman of Christian values, but she actually runs a children's home in Kajiado that takes care of more than 200 destitute children.

In conclusion, the majority of these nominees have served this nation in positions that are unrewarding. The SRC and DCI are institutions that most of us would shy away from serving for obvious reasons. They are created to serve public interest and in the course of duty, you will not evade stepping on people's toes. It will, therefore, be unfair if we victimise individuals for actions done in the course of delivering their mandate. This House today has the chance of setting a precedent on how we treat those who have not shied away from delivering their constitutional mandate.

With those very brief remarks, allow me to second the Motion.

**Hon. Members:** Put the Question.

**Hon. Speaker:** Hon. Members, I have not even proposed the Question. The Question must be proposed before it can be put.

*(Question proposed)*

Hon. Members, I think you are clapping too much. For the information of Members, they always say that people declare their interest. At this point, I want to inform the House that when Hon. Paddy Ahenda was first elected in a by-election as a Member of Parliament in the 9<sup>th</sup> Parliament, I was one of his godfathers in escorting him to the Speaker to be sworn in. so, I have declared my interest.

*(Laughter)*

Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I stand to support this Report. I am sure many people were waiting for my individual position. As I said, when we were dealing with the matter of Esther Koimett, the vetting procedures of the House are anchored in law and the checklist is provided. Regardless of issues that you have against a nominee, if a competent committee of this House vetted a nominee based on the Public Appointments (Parliamentary Approval) Act and the Constitution—more so Article 75 of the Constitution and section 6(8) of the Act—looking at the qualifications of the nominees, looking at their experience...

Amb. Oginga Ogego was the Kenyan Ambassador to the USA and I had the privilege, during the 10<sup>th</sup> Parliament, of seeing him in Washington. He is one of the finest diplomats that our country can be proud of. I am sure he is going to make sure that, while in Saudi Arabia, the Saudi Fund for Development and other agencies will have the opportunity to provide more resources to our country. Of course, there is an issue in Saudi Arabia, but I want to confirm to the House that there are over five million Muslims who go to Saudi Arabia every year, either for Haji or their religious activities. And they go to two cities: Mecca and Medina. A non-Muslim is not allowed to go to those two cities. But I can confirm that the President and the Ministry of Foreign Affairs will make the deputy to Amb. Oginga Ogego, if he is approved, to be from the Muslim faith so that he can assist the ambassador deal with other multilateral issues and on religious aspect, the deputy ambassador can deal with the five million Muslims who go to Saudi Arabia.

I had not met Hon. Paddy Ahenda, but those Members who served with him in the 9<sup>th</sup> Parliament - the Deputy Speaker, the Speaker, the Chair of Defence Committee, and Hon. Cecily Mbarire - have told us of good things about him. He has met the threshold.

On Hon. Benjamin Langat, I think he has the best job. He was the Chair of the Finance Committee. He is a man who loves social life in the evenings. If I was asked to post him, I would have posted him to Russia. But now he has enough time to play golf. He has enough time to sell our country. I am proud the President and the Government are recognising the talents of former Members of Parliament. We have approved Hon. Chepkong'a, Hon. Kajuju, Hon. Nyokabi, and now the three ambassadors who are former Members of Parliament.

The former Air Force Commander, Lt. Gen. Samuel Thuita is in the right station. He is a man who served in our Defence Forces.

Finally, I am happy that Sarah Serem is going to China, very far away. I am happy the President did not put her close here in East Africa, where she can influence the new Salaries and Remuneration Commission (SRC) commissioners. She is going to China where there is no internet, no *Facebook* or *WhatsApp*. So, the likelihood of Madam Serem influencing the current names which are before the House is zero. It is said that only a wise man changes his position. I have looked at the Report and the men and women who sit in the Defence and Foreign Relations

Committee, despite Sarah Serem making our lives difficult, did not find anything else as per the Act and the Constitution to deny her the job. Last night, I slept because China is very far. We will ask the President that after China, if there will be another posting, she will go to Brazil now that we do not have an embassy in Antarctic.

There should be ceasefire between us and Sarah Serem. She has to fly 16 hours to come and do consultancy for SRC. So, Members, we are very safe. If we reject her, she will be around and she might be hired as a consultant by the new SRC. Hon. T.J. Kajwang', Hon. Kaluma and our Hon. Speaker know what we went through. We are here because we are people who think. In the USA, they call it the "situation room". We found a way. So, let us support. We ask Hon. Sarah Serem that when we come to China... The Chair of the Departmental Committee on Defence and Foreign Affairs, please welcome us and give us the necessary support.

*(Hon (Ms.) Joyce Korir spoke off record)*

We as Parliamentarians... Hon. Joyce relax. We are not in Bomet County Assembly. We are in the National Assembly. Whenever we go for a trip, the first thing the Clerk does is to contact our embassies. It is not a favour. Every time an MP is leaving the country, the Clerk contacts our consulate or embassy. It is not a favour. Now that we have approved her, when we go to Beijing... Most of us do not go to Beijing. We go to Guangzhou where we can eat the African food. If at all we end up in Beijing, please, treat MPs with some decorum.

Hon. Speaker, I am sure Members will agree with me. The question is: Is it better to have her around as a consultant with the SRC or as an ambassador in China? The opportunity cost is to have her as an ambassador to China.

I beg to support.

**Hon. Speaker:** Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I also support this Motion to approve nine eminent Kenyans who are going to represent us. They are going to be called His or Her Excellencies because they represent the presidency of this country in those countries.

Hon. Speaker, most of them have the qualifications, and I know some of them personally. I do not want to over-emphasise about Benjamin Langat whom we served with in this Parliament for 10 years and has shown competence. He is the one who was chairing the Departmental Committee on Finance and National Planning of the House and he can perform. I also know Patrick. We know him as Ahenda Medi Medi. He is a very diplomatic individual who also has extensive experience. Before he even joined Parliament, he had a lot of interaction internationally. He is someone I know who has the capacity to represent this country. Nicholas Oginga Ogego has been an ambassador to the USA, which is the most important station in the world in terms of diplomacy.

Hon. Speaker, many of us are happy with Manoah Esipisu's work record at State House, and the way he was discharging his duties. He is composed and did very well in his office. Maybe, his boss has a different view but, in my view, he did very well. Francis Muhoro has had issues with his performance but the complexity of that office must also be appreciated. We urge anyone who is given a public office that when you are serving there, ensure that you work for the benefit of the people of Kenya.

Hon. Speaker, allow me to talk about Sarah Serem. Maybe, something that Hon. Members are not aware of is that we belong to the same denomination with Sarah Serem -

Seventh Day Adventist. I have disagreed in the past with some of her decisions. Hon. Kaluma is not so sure whether I pray, but I want to tell him that I pray a lot and that is why most of my character is not bad. I do not hang around with him in the evening where he hangs around. That should tell him that there must be something that is keeping me away, not anything but the glass.

Hon. Speaker, let me go back to Sarah Serem because when Hon. Kaluma sits near you, if you are not careful, he can easily distract you. I have disagreed with Sarah Serem especially where she did not have the wisdom to appreciate the work and role of an MP. I was shocked to learn that Sarah Serem could not even understand the role of an MP. I am happy today that she knows the role of an MP - that an MP can give or deny you a job. That, to me, has satisfied me and made me have peace of mind.

We want to prove to Sarah Serem that we are not vindictive. We want to prove to her that even though she did not appreciate us, we appreciate her and allow her go to China and represent this country. I do not mind even if she treats us the way she has been treating MPs here. After all, even if she treats me the way she wants in China, I will come back to Kenya.

So, I just want to pass a message to Sarah Serem that she needs to have some interpersonal skills to deal with people. Her public relations is very low. Sometimes, my denomination can make you to be a very confined person. We have some beliefs that sometimes people do not appreciate very much. I tried to assess her performance in line with our beliefs and they were not in tandem.

However, I also appreciate that she was not alone in that Commission. She was also working with people. I want to assume that probably she meant well, but the team that she had probably did not appreciate us much.

Hon. Speaker, in short, I am pleading with this House that we demonstrate maturity as a House that approves appointments by not going personal but rather, expressing where we feel someone has not performed well. What does her work at SRC got to do with her work as an ambassador to China? I am not sending her to China because I want her to go far as the Leader of the Majority Party was saying. I do not want to be with the Leader of the Majority Party on that because I know nowadays with communication, she can still be consulted. I know Madam Sarah Serem has learnt her lessons. I am sure she must be thinking in her mind when she is watching us debate and asking herself: "Really, did I understand these people correctly?" I am sure she knows now that Members of Parliament have a responsibility that sometimes you cannot quantify in terms of work output. We have a position in the society which needs to be appreciated even when you are doing the job grading. You do not just undermine us and equate us to cleaners. I know cleaners also do a good job because if they were not cleaning our offices and homes, we would not find them comfortable. But when you want to demean a Member of Parliament who has been elected... In fact, I wanted Sarah Serem to contest even for a Member of County Assembly (MCA) position and get even 100 votes. In fact, persuading an adult to wake up in the morning with his vote and ID to go and vote for you in secret, where you are not even seeing that person, is the most difficult job. Some people who have managed to persuade like that consistently for 15 years should be accorded some respect. That is the message that Serem should carry as she boards a plane to China. That evening when she is travelling to China, I want her to reflect back on how she handled her job at SRC.

My final remark is on her job at SRC. She was just looking at the wage bill in this country. She has not helped the wage bill to go down. In fact, the wage bill has risen during her time. So, I do not even know what she was doing. She was just playing. One thing that I must give her – and probably that is what she is going to do very well in China – is PR. She has

managed to convince this country that she is so competent because she could hold herself against MPs. She was just focussing on MPs and left the wage bill to rise. In counties, it is a shame. If you go to our counties, the increase in wage bill is astronomical. That happened under her watch. So, as she goes to China, let her go and play her PR very well there, but also serve our interests in terms of even handling the Chinese investment here because we have issues that she should do very well.

I support the Motion. That is the position of the Minority Party.

**Hon. Speaker:** Member for Mosop. The debate is not about ladies. Hon. Jimmy Angwenyi forgets that this House has both ladies and gentlemen.

**Hon. Vincent Tuwei** (Mosop, JP): Thank you, Hon. Speaker, for giving me this opportunity. As a Member of this House, I got the opportunity, through the vetting process, to understand the nine nominees designate for the embassies provided therein. I came to learn that it is good for us to do a good job for this country so that, at one time, one can be rewarded. One can be in one position today and tomorrow, you can be in another. I came to learn of few things from the interviews we did. I came to learn that the persons who hold offices get into those offices where the tenure of the office gives them the opportunity to do some things that, in the public eye or in the leadership eye, may not be good. But if you meet the person himself or herself, you will realise that he or she is more human than the office they hold.

The person I have in mind here is Francis Muhoro Ndegwa. I found Francis Muhoro Ndegwa as one ambassador who will actually do a lot of work because from what I learnt from him, he understands diplomacy even though he was in the security sector. One thing I want to appreciate the President for...

*(Loud consultations)*

Hon. Speaker, I wish Hon. Savula here could consult quietly. I found out that those we interviewed, especially those from the military background, the kind of courses they have gone through are so impressive. If you look at the kind of trainings and courses that our security forces go through, you will appreciate this country. No wonder when we go for peace keeping in the world, we have men and women who fly the flag of this country high. That is why I thank the President for appreciating the good work of the men and women in uniform. He has given them positions where they can showcase their talent of many years.

With those few remarks, I support the list in totality.

**Hon. Speaker:** Member for Yatta.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Speaker. As a member of the Committee, I, too, wish to support our Report. I have four comments I would want to make. First, all the nine nominees are from different backgrounds, professions and careers. We have Mr. Ndegwa Muhoro as the second police officer to be appointed as a diplomat. We have two senior professional soldiers, Lt. Gen. Ondieki and Lt. Gen. Thuita, who have had a very successful career in the military. They are diplomats by their own right. We have two politicians. I did serve in the House with Hon. Patrick Ahenda although he was here for one year. In the 10<sup>th</sup> Parliament, I did serve with Hon. Benjamin Langat. Interestingly, when you ask the two politicians the experience they have as diplomats, they said you cannot be an MP unless you are a diplomat, which we actually agree with them.

Also, we have a retired career diplomat who has been appointed again, and that is Ambassador Peter Oginga Ogego. This is somebody I did interact with once he was in our

Embassy in Canada. He is truly a very qualified ambassador who has been sent to Saudi Arabia. We also have a senior civil servant and two people from the private sector, that is, Sarah Serem and Manoah Esipisu who is from State House. The Committee did observe, although they are all qualified, that in the next appointment, it will be encouraging also to see the people in the diplomatic service within the ministry also appointed to the positions of ambassadors. Also, in terms of age, when you look at the nine appointees, all of them, with the exception of one, are over 53 years, with the oldest being Patrick Ahenda at 66 years and the youngest being Benjamin Langat at 42 years. Our observation is that it is also good in future - and this House will be happy - to see a younger generation also being appointed into diplomatic service.

Of interest also – and this is where the House needs to look into – we appear not to have set any laws in terms of academic qualifications. It is up to this House in future to look at the laws we need to bring so that we have academic qualifications. I will finalise with the issue of Sarah Serem. In the 16<sup>th</sup> Century, there was a king called Hammurabi. He ended up being called Hammurabi the Lawgiver. That was in the Babylonian Empire which is the current Iraq. This man believed in an eye for an eye and a tooth for a tooth. This House is not guided by the Hammurabi Code of Laws. Sarah Serem crossed the Members of Parliament. Members of Parliament have a right to show their concern but, the mood in the country is that of the handshake. Let us approve Sarah Serem as our handshake. Let her learn that when you are given power, do not abuse or demean anybody. The problem with Sarah Serem is that when she was in that office, she wanted to demean Members of Parliament, which was very wrong. Let her learn. Let it be a lesson for those who will succeed her.

I remember we served in the 9<sup>th</sup> Parliament and we had one Ringera who had a habit of abusing MPs. This House dealt with him until he left office. After she goes to China as the ambassador, I assure Members that we sit on the oversight Committee. We will be the ones overseeing her. For once, as my colleague Duale said, God is great. She will be reporting to our Committee through the Ministry. In case of indiscipline, we will deal with her.

With those many remarks, I support the Motion.

**Hon. Speaker:** Let us have Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support the Report of the Committee and to congratulate the nominees, first of all, for being nominated and for getting this far in terms of vetting.

I want to make a few remarks, perhaps, not related to any specific individual. I know some of the things that happen within the diplomatic world from my rather long time within Government and interacting with diplomats, not just from Kenya, but from other countries. One of the issues that the Committee might want to look at is that, this is the second time we are getting a batch of ambassadors and high commissioners. Even the debate around Sarah Serem is almost being taken as “good riddance” rather than appointment on merit. It is not just her. For some of the other appointees who were in the Cabinet, even the media was very clear that they had been dropped and are now being shipped away to become ambassadors.

When that happens, the first thing that happens is that our ambassadors lose credibility within diplomatic circles. Their fellow ambassadors look at them as rejects in their own country. They look at them as people who have been taken there as “good riddance” and we lose on the representation and the value we are sending those people for. I urge this House that even as we look at this, let us not pass the message to the rest of the world that we are taking people out of Kenya because we do not want them here. When they represent us in those countries, they will

not be respected by the other diplomats they find there. I make that plea to this House as we move forward.

Secondly - and I think the matter was raised by Hon. Koech - there are jobs that you perform and you do not become popular. I have been in that position. I was referred to as the most arrogant Minister because I would refuse to increase the mileage for parliamentarians. That was what the National Treasury was expected to do.

*(Loud consultations)*

I am confessing and telling Parliament.

**Hon. Speaker:** What is the point of order?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I served in the 10<sup>th</sup> Parliament. Hon. Kimunya was a very powerful Minister but to my knowledge, he has never served on the Parliamentary Service Commission (PSC) that decides on mileage. When he says that he refused to increase mileage, that has never been. He was very powerful in the Kibaki Government for reasons all of us know. He had no powers in as far as the Commission is concerned. He is out of order. Can he withdraw that he set the mileage for us? He was not arrogant. He was a humble man.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, if my memory is correct, Cap 5 was the then Parliamentary Salaries Act which required that any adjustment to the mileage would have to be approved by the National Treasury. The PSC made those requests and I approved the mileages and even the increase of the mortgage. I had set those regulations to increase the mortgage to what it was and to even allow it to be used for renovation of buildings because not everyone was buying a house.

The point I am making is that there are jobs that you are appointed to that require you to make some decisions that might not be very popular, and you cannot then be held responsible for making those decisions. We need to look at those people. It is the same thing that we would be facing when we are looking at the Director of Criminal Investigation. There are people he may have taken to court. When you are vetting a former Director of Public Prosecutions (DPP), there are people he may have taken to court not because of anything personal. It is important when we are vetting people that we do not hold grudges because of the exigencies of the office and job placed on them and then we hold them responsible forever.

Those guys will represent us well. They are good people. I know quite a number of them. We can only wish them the best. Most importantly, I believe they have been put there, not because they have failed in the other jobs or are being “kicked upstairs” as the Americans would say, but because they have been assessed and are the people who best represent the interests of our country. A heavy responsibility has been placed on Sarah Serem. Looking at the bilateral agreements and the financing issues between Kenya and China, China seems to be a heavy responsibility. We wish her the very best.

I wanted to re-emphasise the point that there are so many career diplomats who may also need to be considered in the second wave. This is so that they do not think that their careers have been curtailed to just serving people who come from the outside and they do not see any progression beyond themselves, unless they retire and join us on this side in politics. I just wanted to highlight some of those things.

Be that as it may, I am happy to support the Report and congratulate the Committee for a job well done.

**Hon. Speaker:** Let us have Hon. Osoro.

**Hon. Silvanus Onyiego** (South Mugirango, KNC): Thank you, Hon. Speaker.

**Hon. Speaker:** I am trying to balance counties. Hon. T.J. Kajwang', what is your point of order?

**Hon. Tom Kajwang'** (Ruaraka, ODM): Hon. Speaker, I just want to request that because this is a lively debate and many of us would want to pitch in something, could we reduce our time to five minutes per Member so that each of us can get something? For obvious reasons, there are some people we need to say something about.

**Hon. Speaker:** You know the usual style of doing this under Standing Order No.97. I will only appeal to your own consciences to take on board what Hon. T.J. Kajwang' has said.

Proceed, Hon. Osoro.

**Hon. Silvanus Onyiego** (South Mugirango, KNC): Thank you, Hon. Speaker. The Speaker has ruled five minutes and I will be quite brief. I, first, want to appreciate you for noticing me today. It is not very easy. I rise to support this Motion. I sat in the Committee that vetted all the nominees for appointment as high commissioners and ambassadors by His Excellency the President. It was notable that there were so many speculations outside here, especially with regard to some nominees.

*(Loud consultations)*

Hon. Speaker, if you protect me, I will appreciate because I cannot concentrate. I need attention. The House should keep quiet. I want your attention and that of the Hon. Members.

**Hon. Speaker:** Hon. Osoro, speak because you are speaking to history. There is a record there. You will also want to come and consult me soon here. Do I have to wait until you finish? Proceed.

**Hon. Silvanus Onyiego** (South Mugirango, KNC): There was opposition by some of our colleagues before the vetting of one lady, Ms. Sarah Serem. I need to pronounce myself on the same and say that it was extremely hard to find any fault during the vetting. As a House, we should not allow ourselves to be used to settle some scores. We need to be very careful when we are handling issues of appointments.

Ms. Sarah Serem was not working alone in the Salaries and Remuneration Commission. She was working with the other commissioners. She was just a spokesperson of the Commission. In as much as she never made a very interesting decision with regard to this House, that is a strength that we need to take seriously. That is the strength of a person who can stand with what she believes in. This is a person who will represent this country. She believes in this country. She will represent it in China. She will sell it because she believes in it. I want to disassociate myself from the sentiments which were made by the Leader of the Majority Party. He said that Ms. Sarah Serem has gone far away and we need to send her farther away because she messed up here. The ambassadors were nominated on merit. They were vetted by Hon. Members who are competent. They sat in those committees for long hours. We were not doing that because we had some scores to settle with any person.

*(Loud consultations)*

We are not chasing Ms. Sarah Serem.



**Hon. Speaker:** Order Members. The Member must be heard, even if you do not like his views. Please proceed. You are doing very well.

**Hon. Silvanus Onyiego** (South Mugirango, KNC): Thank you, Hon. Speaker. We need to appreciate the strengths of our men and women when they are given appointments by the State. When Mr. Ndegwa Muhoro was appointed by His Excellency the President, he did a tremendous job, in as much as we might not agree with him and there are issues. We do not need to agree with a person who is in a very controversial position.

In as much as Members disagree with Ms. Sarah Serem, we are not chasing her away. She is qualified for the position. I do not know why Hon. Joyce is opposing what I am saying. That is your sister. We support the nomination of all these ambassadors because they are competent, but not because they messed with us.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Hon. Rasso. I have to keep the counties in mind. I know which counties have contributed. Gender is also represented in counties.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Speaker, for giving me this opportunity to contribute. I rise to support this Special Motion on Approval of Nominees for Appointment as High Commissioners and Ambassadors.

As the Departmental Committee on Defence and Foreign Relations, we vetted the nominees and understood that those are men and women of honour and integrity. They are knowledgeable and have experience that they will bring to the Ministry of Foreign Affairs and International Trade and as diplomats to those missions.

I want to move away from personalities. We need to understand and agree that this is the face of Kenya out there. Will they represent us effectively? Will these individuals provide honour, integrity and the diplomacy that we expect from them? The Kenya Defence Force generals have been appointed during this time and before. They bring experience, honour, discipline and work ethics. It is one of the greatest things that the Jubilee Government has done. These individuals have served this country in both command and high military strategy, where they have worked both in the headquarters and their units. We believe that they will bring something which is very positive to the Ministry of Foreign Affairs and International Trade. There are bilateral and multilateral missions. One of the speakers before talked about the diplomats who are engaged out there. We need to consider that there are outsiders who have been appointed as diplomats. However, there are also accomplished diplomats like Ambassador Ogego. We need to assign them the right missions, so that the officers who will work under these ambassadors and high commissioners will not struggle to do their job.

Finally, I agree with the appointment of Ambassador Ogego who is an accomplished diplomat, but the Executive must rethink that position. The Leader of the Majority Party has said something about Saudi Arabia. It is a pure Islamic State where access to Mecca and Medina cities is only allowed to members of the Muslim faith. When our ambassador out there is denied access to government and signed deals, then his activities will be hampered. We ask the Executive to rethink that position.

With those few remarks, I beg to support the Motion.

**Hon. Speaker:** Hon. Wanga.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you very much, Hon. Speaker. I really congratulate the nominees for appointment as ambassadors to the various stations. I would like to congratulate Hon. Patrick Cornel Odero Ahenda a.k.a Paddy *medi medi*

who is from Homa Bay County and a product of the handshake. I am really happy for him. I hope that he will do a good job in Qatar.

In the interest of the matter of time which was raised by Hon. T. J. Kajwang', let me make a few remarks. I also congratulate Hon. Benjamin Langat on his appointment as High Commissioner to Namibia. I have been thinking about the speech I would make on the Floor of this House, if Ms. Sarah Serem is appointed to any position. I have been thinking about it since the day she said that if Members of Parliament will be given sitting allowances, they will ask for standing allowance, walking allowance, sleeping allowance and waking up allowance. I served with you in the Parliamentary Service Commission in the 11<sup>th</sup> Parliament. Despite writing several letters, it would take us six months to get an appointment to meet the officials of the Salaries and Remuneration Commission. I have meditated on this matter. The scathing speech I had prepared was only toned down when my pastor called me and preached about forgiveness and the spirit of the handshake. This is the only reason why I have reflected, meditated and finally said that forgiveness and letting go, non-vindictiveness is part of the game out here.

Hon. Speaker, with a heavy heart, but having released her, I support her to go to China. I would like to send a very strong message to whoever takes such a position. Let us discuss. Nobody wants to have huge salaries. We just want to be fair to everybody and listen to everybody so that we all move forward together with mutual respect. So, wherever Sarah Serem is, let her go in peace. We hope she will represent our country well. I had to speak on this matter because I had prepared for it for a long time. Thank you very much. I support.

**Hon. Speaker:** Hon. Mbarire.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Thank you Hon. Speaker for giving me an opportunity to also add my voice of support to the Motion. Let me begin by saying that like everybody else has said, in the spirit of forgiveness, let us let Sarah Serem move on and go to China to serve our nation well.

More importantly, if you look at the list of nine people, there is only one woman and it is Sarah Serem. Because she is a woman like me and I know she has what it takes, I support her to go and do what is best. But, of course, I am sure she has heard the concerns raised by various Members that have spoken before me. In future, she will be in a better position to treat Members of Parliament better; not just by raising a salary because that was not the main thing. It is the statements she made that demeaned us and made us feel insulted. Otherwise, I know she has what it takes to perform her duty and no doubt she meets the qualification. Therefore, I support her.

I am happy that the President continues to have faith in politicians even when they leave this House.

*(Applause)*

I have always said that the worst thing we can do is to make politicians, once they leave this House, to look like they are unable to play any other role. I have seen the President appoint able politicians into big offices like diplomacy and they have served well. So, I am very happy to see Ahenda whom I served with in this House for about four years. He came in through a by-election. I know he is well and able. But I am even happier for Benjamin Langat, the former Chairman of the Departmental Committee on Finance, Planning and Trade.

*(Applause)*

Hon. Langat performed very well in that Committee. He took his work in this House seriously although in the evening, he liked enjoying what men do and it never affected his work. Therefore, I am happy we have Hon. Langat. I believe he will serve very well.

Let me also add my voice to that of a Member who talked about appreciating the work of men and women who serve in the forces. I am happy to see both Lt. Gen. Thuita and Lt. Gen. Ondieki who have been appointed. I believe their discipline has helped them rise to the top. You will all agree with me that to get to the top of a military career is not an easy thing. It is not a walk in the park. The fact that they have got there means that they truly can serve this country even better in diplomacy. I really wish them well in their new role. It is more of diplomacy than giving orders. I believe they can do it very well.

I am also happy to see Ndegwa Muhoro. We all know the role he played when he worked at the Directorate of Criminal Investigation. Obviously, when you are in certain positions, as Hon. Kimunya has said, there are people who will not be happy. But he did his job well.

I commend Manoah Esipisu for the great work he did when he was the spokesperson at State House. I am happy he passed the vetting. May I add my voice to support all the nine candidates. They will serve this country well.

With those few remarks, I beg to support.

**Hon. Speaker:** Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. I have been waiting for this opportunity. Let me also join my colleagues in supporting these appointments. Looking through the people who have been appointed and listening to the Chair of the Committee, I have no doubt that we got competent Kenyans.

But the more I listened to Members contributing to this Motion, the more I ask myself some fundamental questions. If you look at most of the countries the officers are going to and consider balance of trade, you realise that it is actually not in favour of Kenya. One of the key responsibilities of ambassadors is to make sure they promote trade between Kenya and those other countries. The other important responsibility is promoting international and regional co-operation.

But I really wish to see a situation whereby the Committee chaired by my friend, Hon. ole Katoo, continues monitoring those individuals when they take up the positions so that, at the end of the day, we have very clear outputs in improving international co-operation and improving the balance of trade. We are not doing well. International relationships have shifted; they are more of trading than getting grants and loans. So, it is very critical that those individuals also play a key role in promoting trade between Kenya and the countries they have been posted.

Looking at the composition of the nominees, there is a clear distribution in terms of military and public service. I want to emphasise the point that was raised by Hon. Kimunya that, as a House, let us also encourage the Executive to promote those who are in the system so that, if one has served as a deputy ambassador for five or 10 years, one can also get a chance to be promoted to become an ambassador. When we go out there, we find some of those officers and they tell us that they have been serving as deputies for a number of years and when they see the likes of me and others who are in this House becoming their boss, it discourages them. So, I plead with the House that we also encourage the Executive to give us career civil servants who have also served in the Ministry of Foreign Affairs and International Trade.

Last but not least, I also want to put my spanner in the works of Sarah Serem. Really, she is a competent and qualified lady. But what surprised me most is the issue of academic

qualifications. The reason we are placed at position 46 as Members of Parliament is because they say that this House is very low in academic standards. But, this is the only arm of Government where you find somebody of Form Four level or Class Eight level and PhDs sitting in the same place discussing matters of national importance. When you go to the Judiciary, the judges are all of the same level and in the Executive, directors and heads of department are at the same academic level. So, it was unfair to this House when she said that she could not place a Member of Parliament at the top because of academic qualifications. Those who will take over from this commissioner should realise that this is a House of leadership. When Kenyans elect leaders, they consider other factors other than academics. On that basis, there is the average. So, our rating is completely unfair. How could she place Members of Parliament at position 46 when they are the appointing authority who must approve her to go to China? She thought we are not important when it comes to placement of positions.

So, I support but the lessons we have learnt should be taken over by the new commissioners so that Members of Parliament are placed in the right position in terms of hierarchy.

With those remarks, I support.

**Hon. Speaker:** Hon. Members, we must also be alive to provisions of the Public Appointments (Parliamentary Approval) Act. Members are speaking then they take off. Who is going to do the approval?

**Hon. David Gikaria** (Nakuru Town East, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Gikaria, what is your point of order?

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Speaker, I rise under Standing Order 95. If we continue like this, then we will not have numbers to pass this. As per the Act, by midnight, these people will stand nominated. Since everybody seems to agree, I request you to ask the Mover to reply.

**Hon. Speaker:** Hon. Members, the issue has been raised by Hon. Gikaria that given the circumstances and requirements, and today being the last day, that I call upon the Mover to reply.

*(Question, that the Mover be now called upon to reply,  
put and agreed to)*

Mover!

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Speaker, just for correction, in the Report, Amb. Peter Nicholas Oginga Ogego's date of birth is indicated as 1978. Just for record, it is 1957.

I beg to reply.

*(Question put and agreed to)*

## BILLS

### *Second Reading*

#### THE URBAN AREAS AND CITIES (AMENDMENT) BILL

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, please indulge me. Some of the Chairs of the various committees have not tabled their reports on the Bills. Therefore, I want you to defer the following Bills: The Urban Areas and Cities (Amendment) Bill, the County Governments (Amendment) Bill and the Sacco Societies (Amendment) Bill. Lastly, last night at the House Business Committee, we agreed that the Finance Bill will be slated for debate the week beginning 21<sup>st</sup> August.

I want us to step down and put them for next week because the Chairs have asked for time to interrogate the Senate Bills and file reports to the House.

**Hon. Speaker:** Well, so ordered.

*(Bill deferred)*

*Second Reading*

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

*(Bill deferred)*

*Second Reading*

THE SACCO SOCIETIES (AMENDMENT) BILL

*(Bill deferred)*

*Second Reading*

THE FINANCE BILL

*(Bill deferred)*

### **MOTION**

REPORT ON THE INQUIRY INTO ALLEGED IMPORTATION OF  
ILLEGAL AND CONTAMINATED SUGAR IN THE COUNTRY

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I am not seeing the Chairs of the Joint Committee on the sugar inquiry. Hon. Makali will agree with me that we never anticipated that we will have 30 minutes. It is a very important Report. We want you to direct that it be the first item on the Order Paper tomorrow afternoon, so that those who have eaten sugar, those who have not eaten sugar or those who are connected to sugar in one way or the other can sleep well and wake up tomorrow and come and debate in the afternoon. It is a very emotive thing. We do not want Members to accuse you as our Speaker and the leadership and those who are sitting here that we are doing something behind their back. Let everybody prepare and be in the House at 2.30 p.m. upon your direction.

**Hon. Speaker:** Without the joint Chairs being present in the House, obviously, there would be nothing that can be done. They are the ones to move the Report. We can only take it

out of the Order Paper or stand it down but, as requested, it can be the first business on the Order Paper tomorrow, being Order No.8. If it can start that way, that will help as many Members as possible to express themselves one way or the other on that very important Report.

*(Motion deferred)*

### ADJOURNMENT

**Hon. Speaker:** In the circumstances, there being no other business and the time being 6.38 p.m., this House stands adjourned until tomorrow, Thursday, 9<sup>th</sup> August at 2.30 p.m.

The House rose at 6.38 p.m.